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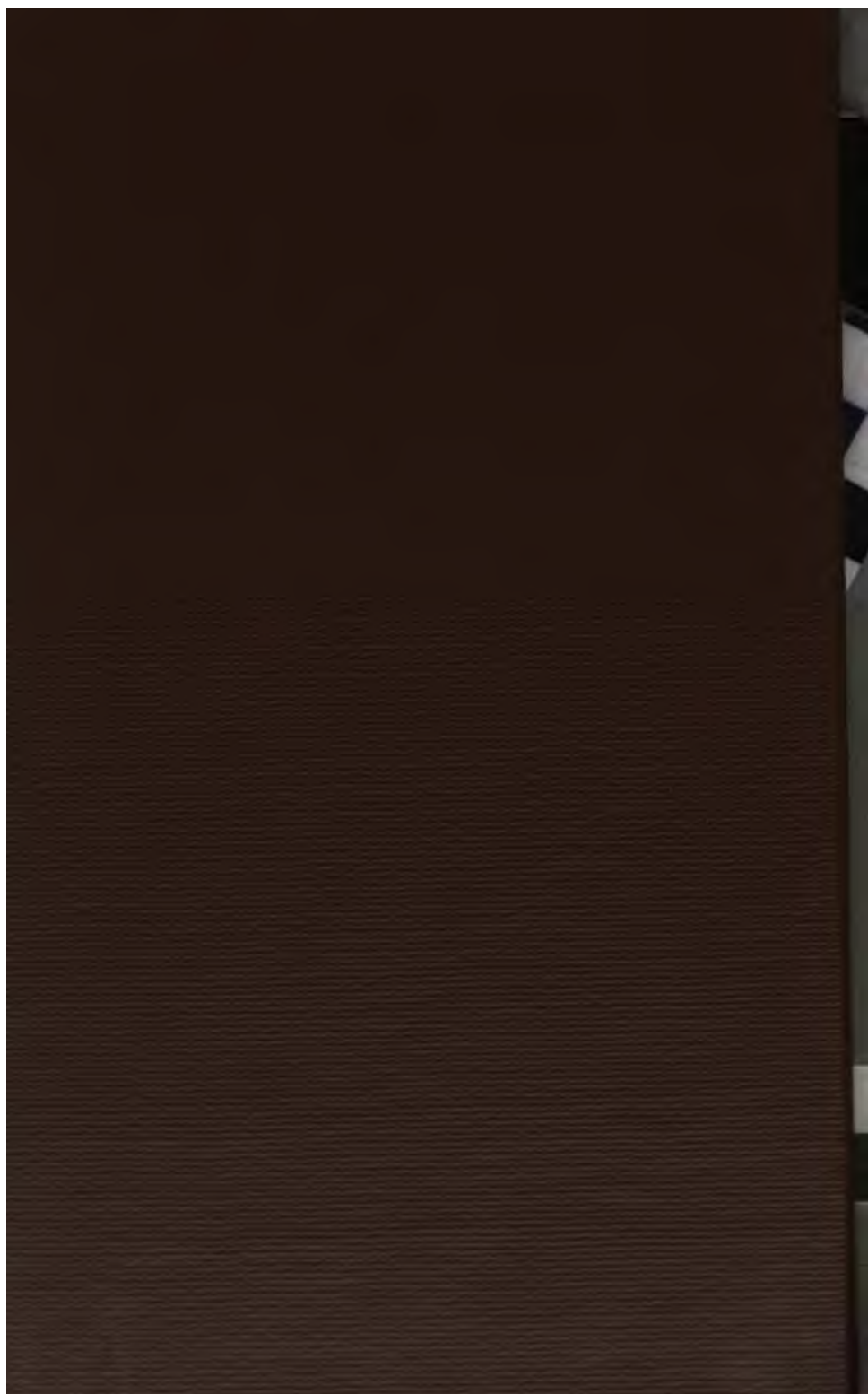
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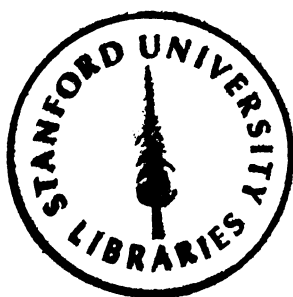
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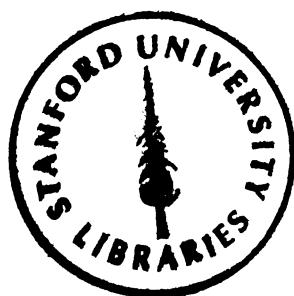
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THE
GENUINE TRIAL
OF
THOMAS PAINE,
FOR
A LIBEL
CONTAINED IN THE SECOND PART OF
RIGHTS OF MAN;

AT GUILDHALL, LONDON, DEC. 18, 1792,
BEFORE
LORD KENYON AND A SPECIAL JURY:
TOGETHER WITH
THE SPEECHES AT LARGE
OF THE
ATTORNEY-GENERAL AND MR. ERSKINE,
AND
Authentic Copies of Mr. PAINE's Letters
TO THE
ATTORNEY-GENERAL AND OTHERS,
On the Subject of the
PROSECUTION.

TAKEN IN SHORT-HAND
By E. HODGSON.

LONDON:
PRINTED FOR J. S. JORDAN, No. 166, FLEET STREET,
1792.

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TRIAL
OF
THOMAS PAINE,
FOR A LIBEL;

Guildball, London, Tuesday, Dec. 18th, 1792,

The KING *against* THOMAS PAINE;
Before LORD KENYON, *by the following Special*
fury:

JOHN CAMPBELL, Merchant, Foreman:

JOHN LIGHTFOOT,
CHRIST. TADDY,
ROBERT OLIPHANT,
CORNELIUS DONOVAN,
ROBERT ROLLESTON,
JOHN LUBBOCK,

RICHARD TUQWELL,
JOHN PORTER,
THOMAS DRUCE,
ISSAC RAILTON,
HENRY EVANS, Mer-
chants.

THE information was opened by Mr. Percival,
as follows:

Gentlemen,

This is an Information against THOMAS PAINE,
for that he, being a person of a wicked, malicious,
and seditious disposition; and wishing to introduce
disorder and confusion, and to cause it to be be-
lieved, that the Crown of this kingdom was con-
trary to the rights of the inhabitants of this king-
dom;

cumstances that led me to believe that it would not confound the judicious reader; and then such a man would refute it as he went along: But when I found that another publication was ushered into the world, that in all shapes was, with an industry inconceivable, circulated, either personally or locally, and was thrust into the hands of parties of all descriptions, that even children's sweetmeats were wrapped up with portions of it, and all the industry, such as I described, to obtrude and force it on that part of the public who cannot correct as they go along; I thought it behoved me, on the earliest possible occasion, to put a charge on record against the author of that book: Now, Gentlemen, permit me to state to you, what it is that I impute to this book, and what it is that I intentionally impute to this book; I mean the intention of the writer of the book. Gentlemen, try it by every thing which the human mind can possibly suggest, and see if you are not satisfied, in the long-run, that it does deserve that description which my duty obliges me to give it. Gentlemen, in the first place, I impute to it a deliberate intention to vilify and degrade, and thereby to bring into abhorrence and contempt, the whole constitution of the government of this country, not as established, that I will never admit, but as explained and restored, at the Revolution; that system of government, which we this day look at; and which, if by contemptuous expressions, or by declamatory propositions ready made, men may be easily imposed upon, and imposed upon to their own destruction, who might
be

be thought to have experience enough to receive that which is their salvation,) and which goes all this way which (I impute to this book, a deliberate design to eradicate from the minds of the people of this country that enthusiastic love which they have for the constitution of this country, which is the greatest human mischief that can be done in society,) Gentlemen, further I impute, that in terms the regal part of the government of this country, founded and limited as it is, is represented as oppressive and abominable tyranny ; thirdly, that the whole legislature of this country is directly an usurpation ; again, that with respect to the laws of this realm, which hitherto have been our boast, of these, without one single exception, that they are grounded on an usurped authority, and are, therefore, null, or, to use his own terms, that there is little or no law in the country ; then it is to be held out in the lower, or better informed classes of ten or twelve millions of people, that there is nothing binding on their conduct, excepting such a portion of religion or morality as they may wish to entertain. Gentlemen, are we then a lawless banditti? Are every man's arms unbound? Are we reduced back again to that savage state of nature ? I ask you that question : You know well the answer. But what will you say to the man who holds this out to those who cannot give the answer you give ? You can answer to this slander on the constitution, this slander on the separate parts of the government, so constituted

tuted as ours is ; then, that sweeping imputation on the whole system of law that binds it together, namely, that it is a null and void system in the several principal circumstances I select to you ; and make this observation, that by selecting those which I observe to be dangerous, I do not do it in order to create a disgust, neither more nor less than this, in stating all the objections that can be to monarchy, to pure and simple aristocracy, never saying a word to those as combined with democracy, that worst of all governments—unbalanced democracy, which is necessarily connected with democratical tyranny.

Gentlemen, to whom are these poisons that are conveyed in this book addressed ? They are addressed, Gentlemen, to the ignorant, to the credulous, to the desperate ; and to those persons who are desperate all government is irksome, nothing can be so palatable to their ears as the comfortable doctrine, that there is no law : They are an easy prey to the crafty, who have the cruelty to deceive. } Gentlemen, in judging of the malignant nature which I from my soul impute to this author, you will be pleased to take into your consideration, the phrase, the manner, and the matter : The phrase I state to be insidious and artful, the manner of the phrase, in many instances, deceiving and contemptuous, —a short argument, only a flippant one, with the ignorant and credulous. With respect to the matter, in my conscience I call it treason, though technically, according to the laws of the country, it is not ;

for, Gentlemen, if we balance the influence of society to that which is technically treason, in this country we must not extend it; consider the danger between doctrines and insinuations of this sort, and that which may happen from any treason whatever, even the compassing the death of the Prince on the throne. The law has found a means of escaping that calamity, which, perhaps, on looking back, we might very easily recollect; but even in comparison with this, the chasm is filled up by the constitution of this country; and where is that power upon earth that can fill up the chasm in the constitution that has been growing, not for 700 years, but from times eternal, as history tells us that has been growing from the time past, from that day up to this, until it was consummated by a revolution which shone forth in all its splendour. Gentlemen, even to impute to the existence of this constitution the very evils inseparable from human society, or even from human nature itself, all these are imputed to that scandalous and wicked, that usurped constitution under which we, the subjects of this country, have hitherto conceived ourselves happy to live. Gentlemen, I conceive it to be no difficult operation of the human mind to distinguish between the law under which we live, and to draw men's minds from that constitution; it is the operation of good sense, and it is not difficult for a Jury of the City of London. Gentlemen, you will observe whether the whole of this book, that is,

so much of it as I am at liberty to trouble you with, is not of this description, that it is by no means calculated to discuss and convince, but to inflame; not to reason, but to dictate, and, Gentlemen, to dictate in such a manner and in such phrase, as in all such circumstances it cannot, in my humble apprehension, leave the most remote doubt in your mind of what was passing in the heart of that man who printed this book in this country. Gentlemen, permit me now to say a word or two on those passages I have selected to you, first describing what those passages are. I have thought it much more becoming, and beneficial to the public, than any other course I could take, to select six or seven, and no more, not wishing to load the record unnecessarily. The first of them you will find in page 21, where you will find this doctrine:

“ All hereditary government is in its nature tyranny. An heritable crown, or an heritable throne, or by what other fanciful name such things may be called, have no other significant explanation, than that mankind are heritable property. To inherit a government is to inherit the people, as if they were flocks and herds!”

Now, Gentlemen, what is the tendency of this passage? All hereditary government is in its nature tyranny: So there is no jurisdiction whatever, not even the subordination of the country; the regal office being neither more nor less than this, stating it roundly, that in all circumstances

stances whatever, hereditary government must in its nature be tyranny. But is it to be held out to the people of this government, that they are slaves? Now, Gentlemen, there is one of those ready-made propositions, that are crammed down the throats of the people of this country: The case is such, that I am bound intolerably, and I can bear it no longer. Then, Gentlemen, an heritable crown—our's is an heritable crown, or under whatever name, that which we are accustomed to look to, namely, the whole body of the country, it is no other than that men are heritable property; and to inherit a government, is to inherit people, as flocks and herds. It is to be told, without further ceremony, that they are inherited by a king of this country; and you will judge whether that does not hold out this doctrine. The converse is directly the case; The king of this country inherits an office under the law—he inherits no persons; we are not in a state of villanage; he inherits the office—but as to any other inheritance, none else, as you very well know, belongs to him: I shall not stay to prove that one moment.—In page 47, speaking of the Congress of Philadelphia in 1787, speaking of the regal power, which, you know, under a different modification, prevails in that country,

“ This convention,” he says, “ met at Philadelphia, in May 1787, of which General Washington was elected president. He was not at that time connected with any of the state govern-

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ments,

“ ments, or with Congress. He delivered up his
 “ commission when the war ended, and since then
 “ had lived a private citizen.

“ The convention went deeply into all the sub-
 “ jects; and having, after a variety of debate and
 “ investigation, agreed among themselves upon the
 “ several parts of a federal constitution, the next
 “ question was the manner of giving it authority
 “ and practice,

“ For this purpose they did not, like a cabal of
 “ courtiers, send for a Dutch Stadtholder, or a
 “ German Elector, but they referred the whole
 “ matter to the sense and interest of the country.”

Now, Gentlemen, what is the consequence of that? Is it historic? I should have thought that a man, meaning nothing but history, would have been very well contented to recite only history; not in those inflammable and contemptible words, “ For
 “ this purpose they did not, like a cabal of courtiers,
 “ send for a Dutch Stadtholder, or a German
 “ Elector; but they referred the whole matter to
 “ the sense and interest of the country.” Here the Revolution, and the force and sense of the nation, stare us in the face; it was nothing more than a mere cabal of courtiers. But to shew how totally unnecessary this passage was, except for the deliberate purpose of contempt, I will just read three or four lines, to shew how it would operate; the passage beyond that which is called a cabal, is this:

“ They

“ They first directed, that the proposed constitution should be published. Secondly, that each state should elect a convention, expressly for the purpose of taking it into consideration, and of ratifying or rejecting it; and that as soon as the approbation and ratification of any nine states should be given, that those states should proceed to the election of their proportion of members to the new federal government; and that the operation of it should then begin, and the former federal government cease.”

This is nothing more than a narration of what had passed at the convention: Does not this passage stand insulated between the two passages of history, thrust in for the purposes of mischief? The different wicked passages that are meant to do mischief, are spread throughout, and stuck in here and there; and it is pretty frequently necessary to have a recollection of the preceding passages, for the passages very manifestly shew the whole: And if any one will compare the passages together, he will see that mischief come out, more than by one single passage. The next is in page 52; he expresses himself in this manner:

“ The history of the Edwards and the Henries, and up to the commencement of the Stuarts, exhibits as many instances of tyranny as could be acted within the limits to which the nation had restricted it. The Stuarts endeavoured to pass to se limits, and their fate is well known. In all

“ those instances we see nothing of a constitution;
“ but only of restrictions on assumed power.”

Then, Gentlemen, from the reign of the Edwards and the Henries, it was a regular progression of tyranny; not of liberty, till the Stuarts stepped a little beyond the line, and that begot a necessity for a revision. But the Edwards—I should have thought he might have spared the great founder of our constitution, Edward the Third; but instead of that, Gentlemen, this author would have the people of this country believe, that up to that time it was a progressive tyranny; and that there was some one material restriction, some assumed power, and that in some degree it retarded the progress of that successive system of tyranny. In short, he says

“ After this, another William, descended from the
“ same stock, and claiming from the same origin,
“ gained possession; and of the two evils, James
“ and William, the nation preferred what it thought
“ the least, since from circumstances it must take
“ one. The act called the Bill of Rights comes
“ here into view. What is it but a bargain, which
“ the parts of the government made with each
“ other, to divide power, profits, and privileges?
“ You shall have so much, and I will have the rest;
“ and with respect to the nation, it is said, For your
“ share, you shall have the right of petitioning.
“ This being the case, the Bill of Rights is more
“ properly a bill of wrongs and of insult. As to
“ what

“ what is called the convention parliament—it was
 “ a thing that made itself, and then made the
 “ authority by which it acted. A few persons got
 “ together, and called themselves by that name.
 “ Several of them had never been elected, and none
 “ of them for the purpose.

“ From the time of William, a species of govern-
 “ ment arose, issuing out of this coalition Bill of
 “ rights; and more so, since the corruption intro-
 “ duced at the Hanover succession, by the agency
 “ of Walpole, that can be described by no other
 “ name than a despotic legislation.”

This is the description that this Gentleman holds
 out, of that on which rest the property, the lives,
 the liberties, and the privileges of the people of this
 country. I wonder to God, Gentlemen, that any British
 man—for such this man certainly was, and still is; to
 use the words of our own poet—that when he penned
 those words, or wrote those words, that they did
 not stick in his throat! I will read this Bill of
 Rights: I will make no comment upon it, because
 your own heads and hearts will make that comment.
 Gentlemen, you are the posterity that are to be
 found in this country; are you not to take care that
 those rights shall be secured in this country? They
 are a trust in your hands: You, as a Jury, are the
 guardians of this Bill of Rights; which, Genta-
 men, we all know, alludes to the seven bishops,
 and to the scandalous and gross persecution laid

on their persons. And it says, "All and singular the
" rights and liberties allowed and claimed in this de-
" claration." (*See Bill of Rights.*) Such, Gentlemen,
is the bill of wrongs and insults, as Mr. Paine calls
it; I shall not profane it, by saying one word of it.

Now, Gentlemen, I ask you whether what is said
by this gentleman, be reasoning or suggestion; or
whether 'it is any thing but description, and that
description consisting in abominable and crafty
falsehoods. Would it not have been fair in him to
have said what it was? But, unsight unseen, this
supposition is tendered to the public. Gentlemen,
you will please to make a memorandum of page 56;
you will find that to be written in the same spirit, and
with the same design. This gentleman proceeds in
this manner: He tells you that "The' attention
" of the government of England," this is in a con-
temptuous parenthesis; he says, " (for I rather
" chuse to call it by this name, than the English
" government) appears, since its political con-
" nection with Germany, to have been so com-
" pletely engrossed and absorbed by foreign affairs,
" and the means of raising taxes, that it seems to
" exist for no other purpose." (Then, that go-
vernment exists for no other purpose, than the pur-
pose of raising taxes.) I only beg leave to draw
your attention, Gentlemen, to the dogmatic cavalier,
and contemptuous parenthesis: Further, he says,
" Domestic concerns are neglected; and with re-
" spect

“spect to regular law, there is scarcely such a thing.”

Gentlemen, I am addressing myself to gentlemen eminent in the city of London: I think I may appeal to the growing prosperity of this country, from the moment that the night-mare was taken from it, to this moment; and God send it may continue to contemplate this doctrine, as applied to the subject, and I think you may see sufficient cause for disapprobation! Gentlemen, we shall now proceed to page 63, where the whole constitution of this country having been profaned in gross, we now proceed a little to dissect it: It consists of the several parts of that constitution; and in page 63, in a dogma, we have this:

“With respect to the two houses, of which the English parliament is composed, they appear to be effectually influenced into one; and as a legislature is to have no temper of its own, the minister, whoever he at any time may be, touches it as with an opium wand, and it sleeps obedience.”

Now, Gentlemen, here is another dogma, without a single argument; but that there is no government, they are dead-asleep, and that you might just as well have so many pictures, so many statues; and that it is not new, but from the very nature of things it must be so: It says,

“Wretched as the state of representation is in England, it is manhood compared with what is called the house of Lords; and so little is this nicknamed house regarded, that the people scarcely
“enquire

“ enquire at any time what it is doing. It appears
 “ also to be most under influence, and the furthest
 “ removed from the general interest of the nation.”

Now, Gentlemen, this is spoken in this contemptuous manner of the aristocratical part of this country; it is not for me, Gentlemen, at this time of day, to be lecturing about it:—I really will not repeat the catechism of Englishmen. You are not so ignorant of the history of this country, not to know the very brilliant characters there have been, and are in it, which will defend it from such scandalous and contemptuous slanders, and shew whether the government is good or bad. Gentlemen, the next is page 107; there you will find two of the component parts of the legislature disposed of.

We will come now up to the Crown itself: “ The
 “ Crown very truly itself signifies a nominal office
 “ of a million sterling a year, the business of which
 “ consists in receiving the money. Whether the
 “ person be wise or foolish, sane or insane, a native
 “ or a foreigner, matters not. Every ministry acts
 “ upon the same idea that Mr. Burke writes, namely,
 “ that the people must be hoodwinked, and
 “ held in superstitious ignorance by some bugbear
 “ or other, and what is called the Crown answers this
 “ purpose, and therefore it answers all the purposes
 “ to be expected from it. This is more than can
 “ be said of the other two branches.”

Gentlemen, I do not offer one word upon this: but in page 108 you will find,

“ This is the hazard to which this office is exposed

“ posed in all countries; not from any thing that
 “ may happen to the man, but from what may
 “ happen to the nation—the danger of its coming
 “ to its senses.”

We have been insane for seven or eight hundred years, and when an insanity has subsisted so long, I trust it will become incurable. In page 116 you have these words:

“ I happened to be in England at the celebra-
 “ tion of the centenary of the Revolution of 1688.
 “ The characters of William and Mary have al-
 “ ways appeared to me detestable, the one seeking
 “ to destroy his uncle, and the other her father, to get
 “ possession of power themselves; yet, as the nation
 “ was disposed to think something of that event, I
 “ felt hurt at seeing it ascribe the whole reputation of
 “ it to a man who had undertaken it as a job, and
 “ who, besides what he otherwise got, charged
 “ 600,000l. for the expence of the little fleet that
 “ brought him from Holland. George the First
 “ acted the same close-fisted part as William had
 “ done, and bought the Duchy of Bremin with the
 “ money he got from England, 250,000l. over and
 “ above his pay as King; and having thus purchased
 “ it at the expence of England, added it to his Ha-
 “ noverian dominions for his own private profit.—
 “ In fact, every nation that does not govern itself,
 “ is governed as a job; England has been the
 “ prey of jobs ever since the Revolution.”

Then, Gentlemen, this is something different from

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democracy

democracy and hereditary; he conceives that sort of government, not to be the government of a people of themselves; but that it is a job, and not a government.—Now, Gentlemen, such are the passages; I have selected those that bear most on the most offensive doctrines in the book,—that are such as go fundamentally to overturn the government of this country.—In page 161 it is said,

“That fraud, hypocrisy, and imposition of governments, are now beginning to be too well understood to promise them any long career. The farce of monarchy and aristocracy, in all countries, is following that of chivalry, and Mr. Burke is dressing for the funeral. Let it then pass quietly to the tomb of all other follies, and the mourners be comforted.

“The time is not very distant when England will laugh at itself for sending to Holland, Hanover, Zell, or Brunswick for men, at the expence of a million a year, who understood neither her laws, her language, nor her interest, and whose capacities would scarcely have fitted them for the office of a parish constable.”

Gentlemen, this is said of King William the Third, and of the two King Georges, and of the present sovereign on the throne.—“If government could be trusted to such hands, it must be some easy and simple thing indeed, and materials fit for all the purposes may be found in every town and village.”—Gentlemen, you well know the policy and constitution of this country has ever avoided,

avoided, excepting when driven to it by melancholy necessity, to disturb the hereditary succession to the throne, and have thought it more wise to pursue that principle.—I, Gentlemen, would ask any man who hears me, in point of history, whether it is not the prominent effect of elective monarchy, that they very seldom are men of consideration, and most frequently of turbulent factions, after having disturbed the country?—Often has it happened, too, that when there are foreign and civil wars, they always have chosen very weak persons, in the hope of strengthening their own party; that will be found, I believe, on examination, to be the question with respect to elective sovereignties; and to have prevailed greatly, more than any inconvenience that may have arisen from the natural forms of hereditary rights. Gentlemen, has he stated with any sort of fairness? Has he at all stated or adverted to the many—many resources we are acquainted with?—We know a Council of Parliament, is a Council in matters of law, and a privy Council; it is the same in point of consideration, and in point of respectability, with those which suit the natural course and infirmity of human nature, when it is considered as an office, and that the officer is not an officer of this country. Gentlemen, it has just come across my mind, there is unquestionably one illustrious exception to that doctrine, of a man not the most capable of governing, having been chosen to the seat of an elective monarchy, whom no misfortunes and no disap-

pointments could impair; his mind has arisen with an elasticity equivalent to all the pressure I have stated; and he, though not a great prince, perhaps will go down to posterity, not only as a man, but as a great man,—I mean the King of Poland: That illustrious prince had the greater part of his education in this country; there he cultivated the company of every man of science; there he became acquainted with every mode of literature in this country; he became familiarized to the constitution of the country; there he became inflamed with the bill of wrongs and insults. From that education it is that I really believe him to have become the just and wise prince that he has proved himself to be. Gentlemen, I will now, for want of better expression, for I pretend not to any oratory, I pretend to feeling, and to have formed my expression on this subject according to truth: If I can utter them in plain words, it will be the utmost I can do; but I will borrow from a writer who, I think, is fittest to give an answer to the defendant, Thomas Paine; that man, as I have reason to believe, does not put his name to it; he is not the chief magistrate, but the second in the executive government of a country. Gentlemen, before I bring his words, this is my opinion of the work, and which I humbly offer to your consideration and adoption; he says his “intention appears evidently to be to convince the people of Great Britain, that they have neither
“liberty

" liberty nor constitution ; and there is no possible
 " means to produce these effects to themselves so
 " easy as that where persons governed, follow impli-
 " citly the conduct of the French." The next passage
 is this,—“ Mr. Paine cuts the Gordian knot, and at
 “ once compares parliament, &c. *to the words, the*
 “ *champion of the Revolution ; (I take this to be*
 “ *Adams's answer)* ; I shall therefore now pro-
 “ ceed to examine the reasons ;” and so it goes
 on. Now, Gentlemen, with your permission, I
 shall adopt his words ; “ when Mr. Paine invited
 “ the people of England, &c. *to the words, with*
 “ *which he must be hereditary.*”--So much for the
 passages and the interpretation, which I submit,
 Gentlemen, humbly to your consideration.

The next matter, Gentlemen, on which I shall pro-
 ceed, is the evidence which I purpose to address to
 you ; and that evidence will go to shew not only the
 fact of this man's being the writer of this book, by his
 own repeated admission, and by letters under his hand ;
 but to shew what his intention was, I shall also pro-
 duce to you a letter which this gentleman was pleased
 to address to myself, in which letter he avows himself
 in so many words the author. I shall prove his hand-
 writing, I shall prove the intention with which this
 book was written, namely, to vilify this constitution,
 and injure this nation. I have another letter addressed
 to a person of the name of Jordan, the publisher of
 this book, in which he addresses himself in this way :

" February 16, 1792.

" For your satisfaction, and my own, I send you
 " the inclosed, though I do not apprehend there will
 " be any occasion to use it ; if in case" (which is not
 " much the style of a man of letters) " there should,
 " you will immediately send a line for me under
 " cover to Mr. Johnson, St. Paul's Church-yard,
 " who will forward it to me, upon which I shall
 " come and answer personally for the work ; send
 " also for Mr. Horne Took.

" T. P.

" Mr. Jordan, 166, Fleet-street."

" SIR,

February 16, 1792.

" Should any person, under the sanction of any
 " kind of authority, enquire of you respecting the
 " author and publisher of Rights of Man, you
 " will please to mention me as the author and publish-
 " er of that work, and shew to such person this letter.
 " I will, as soon as I am acquainted with it, appear,
 " and answer for the work personally.

" Your humble servant,

" THOMAS PAINE.

" Mr. Jordan, 166, Fleet-street."

The letter that was inclosed, was thus addressed to the bookseller. Now, Gentlemen, with respect to his correspondence with me, or rather the letter written to me.—

Mr.

Mr. Erskine. My Lord, as the Attorney General says, he will prove this letter, which undoubtedly will establish Mr. Paine to be the author, I will refer it to him, whether he will read any letter which may contain any matter of distinct prosecution: I know your Lordship will not suffer any such thing; but whether Mr. Attorney General will think it consistent with the situation in which he is placed at this moment, to read a letter written at the time subsequent to the time of proof, and containing, as I understand, distinct and clear unequivocal libellous matter; and which, in my outset to the Jury, if I am not deceived, I shall admit, on every principle of English law, to be a libel; will you, therefore, suffer the mind of the Jury to be put aside from that matter, and go into the matter which hereafter may be, and I cannot but suppose would be the determination, were he in the reach of the laws of this country?

Court. I am clearly of opinion, that if it goes to prove that he is the author of this book, I cannot object to it.

Mr. Attorney General. The letter is dated the 11th November, in the first year of the Republic.

“ *Paris, 11th of November,*
“ *First Year of the Republic.*

“ *SIR,*

“ As there can be no personal resentment between two strangers, I write this letter to you as
“ to a man against whom I have no animosity.

“ You

" You have, as Attorney General, commenced
 " a prosecution against me, as the author of
 " Rights of Man. Had not my duty, in conse-
 " quence of my being elected a member of the
 " National Convention of France, called me from
 " England, I should have staid to have contested
 " the injustice of that prosecution, not upon my
 " own account, for I cared nothing about the pro-
 " secution, but to have defended the principles I
 " had advanced in the work.

" The duty I am now engaged in is of too much
 " importance to permit me to trouble myself about
 " your prosecution. When I have leisure I shall
 " have no objection to meet you on that ground,
 " but as I now stand, whether you go on with the
 " prosecution, or whether you do not, or whether
 " you obtain a verdict or not, is a matter of the most
 " perfect indifference to me as an individual. If
 " you obtain one (which you are welcome to—if
 " you can get it), it cannot affect me, either in
 " person, property, or reputation, otherwise than
 " to encrease the latter; and with respect to your-
 " self, it is as consistent that you obtain a verdict
 " against the man in the moon as against me:
 " Neither do I see how you can continue the
 " prosecution against me, as you would have
 " done against one of your *own people*, who had
 " absented himself because he was prosecuted. What
 " passed at Dover proves that my departure from
 " England was no secret.

" My

“ My necessary absence from your country now,
 “ in consequence of my duty here, affords the op-
 “ portunity of knowing whether the prosecution
 “ was intended against Thomas Paine, or against
 “ the rights of the people of England to investigate
 “ systems and principles of government. For as
 “ I cannot now be the object of the prosecution, the
 “ going on with the prosecution will shew that
 “ something else was the object, and that some-
 “ thing else can be no other than the people of
 “ England; for it is against *their rights*, and not
 “ against me, that a verdict or sentence can operate,
 “ if it can operate at all.—Be then so candid as to tell
 “ the Jury (if you chuse to continue the process)
 “ against whom it is you are proceeding, and on
 “ whom it is the verdict is to fall.

“ But I have other reasons than those I have
 “ mentioned, for writing you this letter; and how-
 “ ever you may chuse to interpret them, they pro-
 “ ceed from a good heart.

“ The time, Sir, is becoming too serious to play
 “ with court prosecutions, and sport with national
 “ rights. The terrible examples that have taken
 “ place here upon men, who, less than a year ago,
 “ thought themselves as secure as any prosecuting
 “ Judge, Jury, or Attorney-General, can now do in
 “ England, ought to have some weight with men
 “ in your situation. That the government of Eng-
 “ land is as great, if not the greatest perfection of
 “ fraud and corruption that ever took place since
 “ governments began, is what you cannot be a

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“ stranger

“ stranger to, unless the constant habit of seeing it
 “ has blinded your senses. But though you may
 “ not chuse to see it, the people are seeing it very
 “ fast; and the progress is beyond what you may
 “ chuse to believe. Is it possible, that you or I
 “ can believe, or that reason can make any other
 “ man believe, that the capacity of such a man as
 “ Mr. Guelph, or any of his profligate sons, is ne-
 “ cessary to the government of a nation? I speak
 “ to you as one man ought to speak to another;
 “ and I know also, that I speak what other people
 “ are beginning to think.

“ That you cannot obtain a verdict (and if you
 “ do, it will signify nothing) without packing a
 “ Jury (and we both know that such tricks are
 “ practised), is what I have very great reason to be-
 “ lieve. I have gone into coffee-houses, and places
 “ where I was unknown, on purpose to learn the
 “ currency of opinions; and I never yet saw any
 “ company of twelve men that condemned the
 “ book, but I have often found a greater number
 “ than twelve approving it; and this I think is a
 “ fair way of collecting the natural currency of
 “ opinion.

“ Do not then, Sir, be the instrument of drawing
 “ twelve men into a situation that may be injurious
 “ to them afterwards. I do not speak this from
 “ policy, but from benevolence; but if you chuse
 “ to go on with the process, I make it my request
 “ to you, that you will read this letter in Court;
 “ after which the Judge and the Jury may do as
 “ they please.—As I do not consider myself the

“ object of the prosecution, neither can I be af-
 “ fected by the issue one way or the other. I shall,
 “ though a foreigner in your country, subscribe as
 “ much money, as any other man, towards support-
 “ ing the rights of the nation against the prosecu-
 “ tion, and it is for this purpose only that I shall
 “ do it. THOMAS PAINE.”

*To Arch. Macdonald,
 Attorney General.*

“ As I have not time to copy letters, you will
 “ excuse the corrections.

“ P. S. I intended, had I staid in England, to
 “ have published the Information, with my remarks
 “ upon it, before the Trial came on; but as I am
 “ otherwise engaged, I reserve myself till the Trial
 “ is over, when I shall reply fully to every thing
 “ you shall advance. T. P.”

Gentlemen, I have complied with his request,
 I am practising it, and if I succeed he shall never
 return to this country, for I will outlaw him. He
 goes on: “ But I shall offer reasons for writing this
 letter, &c.” In this situation, Gentlemen, I will
 only say this, that I think Mr. Paine does not judge
 very well of mankind. I do not think that is a fair
 conclusion in Mr. Paine, that men who are quiet, in
 obedience to the laws of the country, decently, and
 I hope with a moderate share of reputation, I do
 not think that a considerate man of that sort is just
 a very likely man to be thrown off the hinges; but
 if any of those assassins are here, or in London, and
 there is really some doubt with some people on that

subject; I, for one, think, Gentlemen, that a man's dying in discharge of his duty, is just as good a way of dying as dying of a raging fever, or in a fit of the gout or stone. He says, "the government of England is as great, if not the greatest production of fraud and corruption that ever took place in any government;" and that, "he who does not observe it is blind:" Upon my word, Gentlemen, I am stone-blind then. "But though you may not chuse to see it, &c." Now, Gentlemen, this is contemptuous, scandalous, false, prostitute, profligate. Why, Gentlemen, is Mr. Paine, in addition to the political doctrines that he is teaching us in this country, is he to teach us impeccability, is he to teach us human creatures, whose momentary existence depends on a Being merciful, long-suffering, and of great goodness; that those errors, from which even royalty is not excepted, are to be detailed at great length, and are all to be mentioned in language shocking for British ears to hear, and I am sure disgusting to their hearts? No man, that is not a barbarian and a beast, would wish to destroy that great security of all human laws and constitutions, the Christian religion. Gentlemen, there is not, perhaps, in the world, a better rule to judge by in domestic matters. A family is a small kingdom; a kingdom is a large family. Judge for yourselves, Gentlemen, of the good heart of this man, who thrusts into my hands, who am, if not an useful, at least a grateful servant of a kind master, the slander of that master, and the slander of his children; what will be your verdict with respect to his heart?

He

He says, "I observe to you as one man ought to speak to another;" does he speak of him and his family as one man should to another? and I should have forgot my duty to that master, if I forgot to prosecute him as a violator of the law of the land: He says, "I know, also I speak, what people feel, that you cannot obtain a verdict, and if you do it will signify nothing, without packing a Jury—and we both know that such facts are practised." Gentlemen, I know of no such facts; I know of no such practice; I know the very contrary of those facts or practice, and I know this letter was intended for future publication. Gentlemen, he says, "I have gone into coffee-houses and ale-houses, where I was unknown, and where there is a currency of opinion, and I never yet saw any company of twelve men that condemned the book, but a greater number than twelve approving it." Now, Gentlemen, whether the sense of the nation is to be taken from the opinions of pot-houses and ale-houses, you are to judge. Gentlemen, I will give you a thousand guesses to judge of his motive; but he says, it is from benevolence: He further says, "I desire you will read this letter in Court." Gentlemen, I have done so; "after which the Judge and Jury may do as they please." He says, "I would have published the Information, with remarks upon it; but I now will wait till the trial is over, and then I will make some observations." I hope in God, Gentlemen, he will not omit one single word that I have said this day: At present
sent

sent I do not think I need trouble you any further. I can have but one opinion, which is, that the mischievous tendency of this book is that which I have taken the liberty to enlarge upon ; and that such will be your verdict. However, I have done my duty, in bringing before you an offender of this sort : Be the event what it may, I am satisfied in having placed the public under the shield of your protection.

Thomas Hague sworn.

Mr. Bearcroft. Q. Where did you get that book?

A. At Mr. Jordan's in Fleet Street, on Feb. 28th.

Thomas Chapman sworn.

Mr. Solicitor General. Q. What are you, Mr. Chapman?

A. I am a printer.

Q. Do you know the defendant Thomas Paine?

A. Yes.

Q. On what occasion did you become acquainted with him?

A. Through the recommendation of Mr. Thomas Christie.

Q. For what purpose was Mr. Paine introduced to you, or was you introduced to him?

A. I was introduced to Mr. Paine by Mr. Christie to print some book for him.

Q. When was that introduction?

A. I cannot directly remember, Sir; it was the beginning of the year 1791.

Q. Do you recollect what book it was which you say Mr. Paine had?

A. It

A. It was the First Part of the Rights of Man.

Q. Mr. Chapman, are you a publisher as well as a printer?

A. I am not, I am merely a printer.

Q. Did you print the First Part of the Rights of Man?

A. I did.

Q. Who was the selling bookseller?

A. Mr. Jordan of Fleet Street. I had intercourse with Mr. Jordan and Mr. Paine with respect to that book, merely relative to the manner of publishing the book.

Q. Did Mr. Jordan in fact publish that book?

A. He did.

Q. Had you any intercourse with Mr. Paine relative to printing this book I have in my hand?

A. I had the first edition of this book, I do not mean that I printed this edition of it—this is the Second Part.

Q. Look again at this book.

A. I printed a part of that Second Part.

Mr. Erskine. *Q.* Do you mean that very book, can you swear to that book?

A. I cannot.

Q. Then the Second Part of the Rights of Man, you say you printed a part of that?

A. A part,

Q. Will you inform my Lord and the Jury what part of it you did print?

A. I printed, Sir, as far as page 112, signature H.

Q. By

TRIAL OF

Q. By signature H I believe you mean that letter H which is at the bottom of the sheet?

A. Yes.

Q. Upon whose employment did you print so much of the Second Part of the Rights of Man?

A. Mr. Paine's.

Q. Did you print the rest to the conclusion?

A. I had the manuscript in my possession as far as page 146; I stopped at 112, but my people had composed to page 146.

Q. Now, Mr. Chapman, had you any conversation with Mr. Paine relative to the printing the remainder of the work; and if you had, what was that conversation?

A. I had: When I had finished page 112, letter H, the proof sheet I came into my hands; on examining sheet I, there was a part which, in my weak judgment, appeared of a dangerous tendency; I, therefore, immediately concluded in my mind not to proceed any further. Accordingly, on determining not to go through with the work, I wrote a short note to Mr. Paine; this was about 2 o'clock in the afternoon, determining to send the letter with the copy the following morning.—I found a considerable reluctance in my own mind, from his civilities as a gentleman and an employer; but a circumstance occurred in the evening which enabled me to do it with satisfaction to myself; and as it may, in the eyes of the Court, exculpate me from a charge which Mr. Paine has thought proper to enter against me, I shall esteem it a favour to be suffered

ferred to mention it: That very day Mr. Paine called upon me, I have a copy of my letter to Mr. Paine, which is dated the 17th of January *, so that he must have called upon me on the 16th; he called on me, which was rather unusual, intoxicated; he had dined, I believe, at Mr. Johnson's, in St. Paul's Church, Yard; being intoxicated, he introduced a subject which we had unfortunately differed upon many times, namely *religion*, which he was very fond of introducing when he was so: The subject ran very high with great virulence on the part of Mr. Paine, till at length it came to great personal abuse both to myself and Mrs. Chapman. An observation was made late in the evening (I believe 10 o'clock) at which he was particularly offended, and said he had not been so personally affronted in his life. Mr. Paine accordingly arose, declaring, that as I was a Dissenter, he had a very bad opinion of Dissenters in general, and believed them all to be a pack of

* SIR,

Nevil's Court, Jan. 17, 1792.

I AM much obliged by the favour of your printing, and should have esteemed myself happy in the expectation of your future interest and friendship; but there appear so many observations in the sheet (I) directly personal against the King and Government, that I feel myself under the necessity of requesting you will get the remaining sheets printed at another office. Sheet (H) I am willing to finish, but no farther on any account. I beg, therefore, Sir, to inclose the remaining part of the copy;

And am, Sir,

T. Paine, Esq.

Your obliged humble servant,

T. CHAPMAN.

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hypocrites, and therefore he must be very cautious of them: He begged to have a settlement in the morning. The next morning, at eight o'clock, I saw him—he called upon me, and made many apologies for what he had said; and observed, it was the effect of liquor, and hoped I would proceed on the work: I again stated my reasons to him, for not going on with the work.

Q. You have told us that Mr. Paine was your employer, so far on as you printed: Did you ever make any offer to any-body, to buy the Second Part of the Rights of Man?

A. I did, to Mr. Paine: I made him several offers, in the different stages of the work: The first, I believe, was 100 guineas; the second, was 500; and the last was 1000. Mr. Paine, to the best of my recollection, answered, that as it was his intention to publish a small edition of the work, he wished to reserve it in his own hands.

Q. Have you seen this Mr. Paine write?

A. I have.

Q. Do you know his hand-writing?

A. I think I do.

Mr. Erskine. Q. Have you seen him write?

A. I have.

(Shews him an order and a letter, which he says are his hand-writing; and another letter, which he is inclined to think is his hand-writing.)

Mr. Erskine. Q. In the first place, how often have you seen Mr. Paine write?

A. I

A. I

A. I suppose, a dozen times: Decency would not suffer me to observe his characters.

Q. Oh! decency! I do not know that there was any indecency; but you did not of course take any particular notice of it: Did you, on your oath, look at it, with a view of saying, I will observe how this man writes?

A. I did not.

Q. Did you ever see any other writing than that which you have described?

A. No.

Q. Then you are only inclined to believe that the last letter is his hand-writing?

A. I am inclined to believe it.

Mr. Solicitor General. Q. Do you believe that last letter to be his hand-writing?

A. I believe it is.

Mr. Erskine. Q. Do you mean to say you have a knowledge that it is his hand-writing?

A. It strikes my mind that it is, from looking at the signature.

Q. Then you have further belief within the last minute?

A. Yes.

(Letter, dated the 16th of February 1792, signed by Thomas Paine, addressed to Mr. Jordan, No. 166, Fleet-Street,—“ Sir, should any person, &c.,” another letter, dated 16th February 1792, also addressed to Mr. Jordan, and signed T. P.—“ For your satisfaction and my own, &c.,” another

letter, dated London, 9th June 1792, directed to Mr. Jordan, Fleet-street,—“ Sir, I have drawn on “ you two drafts, &c. ;” another letter, inclosed to Mr. Jordan, dated 21st April 1792,—“ Please “ to settle the account of the sale of the pamphlet “ with Mr. Johnson” ;—the next, an order, dated 7th February 1792, signed by Mr. Paine, directed to Mr. Jordan,—“ Please to deliver, &c. ;” and another letter, directed to Archibald Macdonald, Attorney-General, &c. being shewn to the witness, he declared his belief that they were of Mr. Paine’s writing.)

Andrew Milne sworn.

Mr. Baldwin. Q. I believe you lived with Mr. Jordan in the year 1791 ?

A. He was the publisher of this book ; I saw Mr. Paine there.

Q. Can you tell us what the business was that he came on there ?

A. It was respecting money.

Q. Did you ever go to the printer of that book while he was about printing it ?

A. The Second Part, I did.

Q. By directions ?

A. Yes, by Mr. Paine’s directions.

Q. Had you occasion to see him more than once ?

A. Frequently.

Q. On that business ?

A. Yes.

Q. Did you at any time get an order from him to Mr. Crowther the printer ?

A. Yes, after it went out of the hands of Mr. Chapman,

Chapman, I saw it more than once at Mr. Jordan's shop; afterwards Mr. Paine came with Mr. Horne Took to Mr. Jordan's in the evening; as the conversation was not in the parlour, I did not hear it.

Q. Did you learn from Mr. Paine any thing that had passed?

A. No.

Q. Did you at any time see any money paid from Mr. Jordan to Mr. Paine on account of this book?

A. Yes.

John Burden sworn.

Mr. Wood. Q. Are you acquainted with Mr. Paine?

A. I was formerly.

Q. How long ago?

A. I have not seen him since he went to America; he was in the Excise formerly; I was acquainted with his hand-writing.

Q. Look at this letter, and tell us whether you believe this to be his hand-writing?

A. I believe they all are.

(*The Rights of Man*, Part the Second, containing Principle and Practice, &c. read folio 21, "All hereditary government is in its nature tyranny," to the words, "Flocks and Herds;" folio 47, 107, 116, and 161, read, as quoted in the *Attorney General's Speech*.)

MR.



Mr. PAINE's DEFENCE.

Mr. ERSKINE on the Part of the Defendant.

Gentlemen of the Jury,

THE Attorney General, in that part of his address to you which arose from the communication of the letter written to him from France, did not appear to me at all to play the actor; when he exhibited, most undoubtedly, signs of great sensibility and emotion, he spoke, I am persuaded, as his own feelings dictated. With respect to his situation in receiving that letter, and feeling it his duty to present it before you, Gentlemen, if his embarrassment were that which he expressed, and that which he felt, what do you think mine must be? And, Gentlemen, as I am persuaded my learned friend, for we have known one another from our childhood upwards, does not consider me to be bereft of those feelings which belong to the human mind when it is well cultivated, though I do not possess them, I am persuaded, in the degree he has the means to feel

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them;

them ; yet, I trust, my mind is not unsusceptible of such sensations. He speaks, as he can only speak, as a subject of a sovereign, whose high situation removes him too far from his subjects to have any other affections than those which grow from his great situation in society. You will remember, Gentlemen, that I stand in the same situation towards another great personage, who is implicated in that which I am ready to admit to you is a gross and scandalous libel, and that that is the most improper part of that letter which has been read, though I stand in a different relation. Besides the duty I owe to that Prince to whom I am a servant, I owe to him and feel for him that affection which he demands as a man ; but that shall not detach me from the duty which I conceive belongs to my present situation. I stand here, Gentlemen, to do that which, if it were not done by me, the Author of this book, if in your eyes he is criminal for detracting as he has done from the English constitution, he would have ample ground indeed for that detraction ; for an impartial trial is one of the fruits we all hope is derived from that constitution under which we live, and from which we derive so many benefits. It would appear, I am persuaded, a blur and a blot upon that constitution, if a man, standing upon his trial, could say he could not be defended. I confess, Gentlemen, I should have been glad if I had had an earlier opportunity of knowing correctly the contents of that letter. I should have been glad if I could

could have had an earlier opportunity also of knowing, which I do not admit at present, that it was genuine and authentic; because I know not only the impression which such a letter must make upon Gentlemen's minds who are the Jury to try the cause, but I feel the impression it necessarily makes upon my own mind: but, as far as nature is able to struggle against any difficulties thrown in, and with my duty to my client, I will exert it in the best manner I am able. I confess I cannot help thinking it would be a great advantage to the public, if the Attorney General is right in his comment upon the book, that by the law of England this book cannot exist, or be circulated, from the matter contained in it. I cannot help thinking he thought it for the interest of his country, and the merits of his prosecution, to read that letter. That letter contained what is wholly foreign to the prosecution before you; and my Lord could not receive it upon any other principle than this, that it admitted the Defendant was the author of it, and might tend to prove *quo animo*, that book was written by him. Gentlemen, no one fact whatever has been proved by the Attorney General as coming from the Defendant; or are they capable of fastening upon him one act previous to the work before you. No one expression that he meant to produce civil war and discord in England; nothing reproachful either to the character or conduct of the Sovereign, or any of the family. And that letter is written months and months after

this book, which is the work of his brain, and after he had been, in a manner, drove from and expelled his country, to a new society ; where new ideas may have started up in his mind long subsequent to the work, and which, therefore, do not furnish any fair commentary on the work itself. My friend has stated to you, that rumour has spread it abroad that this prosecution is carried on by him as a public officer of the crown, without any private approbation of his own ; and he thinks it necessary, and I think it right, to think, if he does so think, it has his concurrence, and he should hold himself disgraced in his profession, of which he is so honourable a member, and in society, if he had not brought this matter before you. Here he and I stand in a little different situation : he tells you rumour has spread it abroad ; I am persuaded it has so as to come to his ears. You will attend to truth or falsehood, and I might call upon all around me, except the few that are about the Attorney General, and who are within the immediate intelligence which he can convey, and ask, Whether that rumour has spread itself abroad to any large or extended circle ? With respect to myself, do I stand in that situation before you ? Can you go to any of the places where men resort for pleasure or business, without seeing my name attacked and character wounded and torn to pieces for only doing that which, till I die, or while I continue in this profession, I shall always continue to do ? That is, without making myself a party in
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the cause, without undertaking the defence of this or any other man, I will assert the freedom and integrity of the English bar, with which the most valuable part of the English constitution is lost; for from the moment that any English advocate can state he will or not stand between the Crown and the Subject that is put upon his trial, from that moment the liberty of the subject is gone. If a man high in the profession presumes to give judgment against the Defendant, he assumes the character of judicature; and if he is a man of some reputation (and my situation entitles me to suppose I have some) refuses to do it, how is any man to be defended? But, Gentlemen, I have no complaint to make, either against those printers who have circulated opinions, or the authors of them. I take it a great many of them may be deluded, so as to think they render a service to the public. If there be any description of men, who, from malice and injustice, or from personal disregard to me, have mixed in it, I forgive them; but I stand here, in my situation at the bar, to defend this book and the author in the manner I conceive by the laws of England they may be defended. Gentlemen, I could not help mentioning this, but I should rather, I believe, postpone it for further consideration. It is now my duty to state to you what the question in this cause is; for if it were the question which rumour has invented and perverted, if it were the question that those who have so thought and spoken of me had conceived, it would be

be a very speedy determination ; the question is not, Whether the constitution of our fathers, under which we live, and under which I now present myself before you, be or be not preferable to the constitution of America, or the constitution of France, or any other human constitution ? In the nature of things that cannot be the question. Gentlemen, I will put this matter in a light in which it appears to me, not merely the strongest for the Defendant, but the strongest for us all ; for, though I abhor the calumny in the concluding part of that letter which has been read, there are truths in it which it imports us all to consider ; and, I am convinced, every man in a court of judicature, to divest himself of all prejudices, and meet fairly the case of the parties that are submitted to their consideration.

Gentlemen, it has been asserted loudly and variously, and Parliament has been assembled together out of the ordinary mode, upon the presumption that these things were of mischievous tendency. I should suppose I am now addressing some gentlemen infected with the doctrine of this book, and have no love for the constitution of the country, and believe the country would be happier under the form of a republic. I have no difficulty in asserting, that if there were any of that opinion, and I believe I am not addressing myself to such, but if I were addressing myself to any who had such ideas, I should say, you cannot upon that ground find a verdict for the Defendant. You are bound to convict him, provided

vided, in your judgment, he has transgressed those limits the wisdom and policy of the law of England (and it was that principle that made the constitution) have allowed, not merely for the preservation of the law of England, but for the liberty and freedom of the press; therefore it is impossible that you should have any other species of jurisdiction: you have no authority but by the law of England; you have no right to give a verdict, and his lordship has no right to pass sentence against the Defendant, but for that jurisdiction, which the same law confers upon him; and therefore the question is not whether that law under which we live, is superior or inferior to any other law, but whether it is upon those principles upon which the constitution gave us that law, and that which is continued, and which the constitution does support; and whether it does or does not give any man liberty to write as the Defendant in this book has written. Gentlemen, it may appear, in the outline of a cause like this, to be a large concession, but my learned friend would say, it is rather an artful declaration of counsel; but it is neither, for it is truth: but if true, and I cannot suppose government had not some foundation for assertions so general, if I were addressing myself to men who had read this book, whose souls were impressed with this book, who thought they were doing God honour, and human nature justice, by hastening to a revolution; I should think myself wrong, if, as an advocate in an English court, and I should think I disgrace

disgrace my profession if I said, upon those principles, you could not give judgment for the Defendant. The law binds every man's conduct, and, therefore, it binds your conduct and mine, but it leaves opinion free and open; the consequence follows therefore absolutely, and without any possibility of drawing a distinction; but if, upon the other hand, you should disapprove of the matter contained in the book, and feel that your own government, which he detracts from in several circumstances, is far more valuable and firm in its original construction, than that which he represents, and is not subject to encroachments or abuses which he states, and that the propagation of the doctrines of it may tend to alienate the opinions and affections of some of the people, the subjects of the country, from the government of the country, still you cannot, upon that footing, convict him, without going beyond those limits, unless he has overstepped that authority which the law of England has constituted as the scope and bound of the freedom of the press. Gentlemen, I admit with the Attorney General, for it is in vain to deny it, that in every matter where you are to investigate the mind of the man that has written, you must look also to the mind of the man who wrote it; you must see whether it is written *bona fide*, as lawyers express it: but that, like every other question of justice, must depend upon the evidence before a court of justice, and on the opinion of the court on that evidence; and therefore, whenever a

Man is to be judged by any thing but the work itself, and the construction that work affords; if it is necessary to connect it with any other extrinsic matter, that extrinsic matter must be put on a part of the record: as, for instance—if Mr. Attorney General should say, I do not mean to say that these things were written at another time, I do not mean to say, if they were circulated in a different manner, or connected with different circumstances, which I say was the case of this book, it would be productive of bad consequences, but that it was owing to the situation of France at this present moment; and it is owing to the situation of that people, who have introduced and erected a republic, which Mr. Paine wishes to introduce into this country, for which purpose he writes a book, which at this moment is before you, and which I am to put a construction upon, and to submit those circumstances to your consideration, I humbly contend before his lordship, that the law requires, for the safety of mankind, that any charge which a subject of the country is called upon to answer, shall be put literally on the record, that he may know what crime it is that he comes to answer. The Defendant here comes to answer having written this book; it does not state any extrinsic circumstances which render the writing of this book criminal in one instance, though it might be criminal in another; it does not state any times or seasons of publication, but it is setting down to pen these sentences, and sending them to the world, that constitutes the offence,

and consequently the grammatical construction of the book not in bits and scraps. The Attorney General, out of a book of 178 pages, has plucked only four and a half; but whether those sentences be or no beyond the liberty of the press, which the law of England has given for the most wise and useful purposes of society; it is not whether you approve the book; not whether you condemn part of the passages of it; not whether you are of the same opinion with the author; but whether the man, at the time he wrote it, felt as he wrote, and whether he described himself as he felt. If my learned friend could make out to you this proposition, I admit he will stand in a very different situation before the court. Mr. Paine admired the construction of the English government, persuaded of its virtues, conscious of the benefit derived from it to all the subjects under it; wishing to describe the happiness which is enjoyed under the constitution, with that belief he sets down to write those pages. He could not be defended or protected for what he wrote, if he himself is deceived, and believes that which other men might materially differ from him in. If he thinks what you and I do not think, and under that impression, and the genuine apprehension of his understanding, he sets down to write this book, he is not guilty of any offence against the law of England, although what he writes may be inconsistent with the principles of our government. I take it to be a great part of the freedom of the English government, that every man,

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as I stated before, should be protected in the course of his trial ; and I believe also, if the advocate entertains sentiments hostile to the principles of the man he defends, he is not only justified, but called upon to conceal those particular sentiments from the court : if his sentiments happen to be different from the man he is defending, he is equally bound to state them ; on the other hand, if his sentiments appear to be beneficial, he is equally bound to declare them. Now I know I am addressing myself perfectly well to subjects of this country, and therefore entitled to suppose, what I have every reason to do, I am addressing myself to those that are satisfied with the constitution of this country. I know very well every thing would come with very little weight from any quarter that could be suspected upon that head, therefore I give the Defendant the benefit of contending he is not guilty ; and I give him the benefit of knowing, that which it is not necessary you should know, that I profess myself to be a man who love and admire the genuine principles of the English constitution ; that you may know what comes from me comes from no suspected quarter. I give the Defendant the liberty of the press in saying his opinion differs from mine ; though you may think, as I take it for granted you do, that mine and yours are better than his, and that the form of our government is far better than that which he approves and wishes to inculcate, there is an end of the freedom of England, and of that constitution we all profess to love, if

every man, possessed of an opinion, may not freely write those sentiments, which he does not take up upon the spur of a particular occasion, but merely to express the sentiments of his mind. Gentlemen, the principle I mean to lay down as to the liberty of the English press is this, that every man may address himself, not to individuals to excite them to disobedience to the laws, but that every man may address himself to the individuals of a whole nation, and may in that address canvass the propriety and advantage of the form of government in general, and the government in a particular country which he inhabits; that he may find fault with the constitution, that he may take it to pieces, that he may point out its errors and defects, and state what are its corruptions, and what are likely to be the consequences, and where the public, from falling into those corruptions are long suffered to remain; and in doing all that, he is not a subject of criminal justice, unless it can be shewn, that at the time he so wrote, and at the time he so published, he did it, not contemplating the happiness, but seeking the misery of the human race; that he did it at a time, seeking to bring about consultations in a country by exciting individuals, and informing them they had a right to think and act for themselves, and that any individual might, in his discretion, oppose the general law of the state; I have no difficulty in saying, that if it shall be found, upon an attentive perusal of the works of the Defendant, he inculcates those doctrines, nay, if the direct

direct contrary shall not be found, or if it shall appear that he says to any one man what we might suppose to have been said by him, and what was said by an unfortunate criminal who stood here insulting the court for a length of time yesterday, who, instead of saying I was a prisoner, I put up these premises to be sold, because the French will speedily come and release us, and I did it to excite others to release me from my imprisonment; if there could be one syllable that could have put that man's defence in the present Defendant's mouth, in the face of a patient judge, I must say, upon that occasion, he should be held up to the justice of his country.

Gentlemen, I say, and I say it in the name of Thomas Paine, the Defendant, the Author of the Rights of Man, and in his words, which I shall read to you,—“ The end of all political associations is
 “ the preservation of the rights of man, which rights
 “ are liberty, property, and security; that the nation
 “ is the source of all sovereignty derived from it;
 “ the right of property being secured and inviolable, no one ought to be deprived of it, except in cases of evident public necessity, legally
 “ ascertained, and on condition of a previous just indemnity.” Gentlemen, those are undoubtedly the rights of man. The rights of man it is the end of all governments to establish; and I say no man, after any government is legally constituted, can without rebellion withdraw his allegiance from that government which he has lived under and paid obedience to; that all attempts against it are unwise and
 unjust,

unjust, as well as criminal, for the best reasons are policy, justice; and nothing short of the will of a whole people can change any form or species of government. Any man, therefore, who is told by another he has a right to act and think for himself, that he is no longer to wait, that he is no longer to see whether the operation of that conviction shall be equal to the common sense of mankind, but the moment he has brought himself to a conclusion that any part is defective, he is not to see whether it will be meliorated by common consent, but that from that moment his own judgment and understanding shall free him from the opinion the law is wise and the constitution is just, he may pull it down, and refuse all the obedience to the law and the government; unless I can convince you that the Defendant has taken pains to inculcate a direct contrary doctrine, a doctrine that is directly contrary to the peace and order of the country, however his own conscience may acquit him, he cannot be acquitted at the tribunal of an English Jury. Does any man suppose a person can write a book to another, and say, The instant I can convince you the government of England is defective, you are to go about to destroy it? But, on the other hand, had it not been that persons had a right (and thanks be to God, and thanks be to our constitution for permitting it) to explain those inalienable rights which nature has given us, and that spirit which God has given us, how should we have had that constitution we so justly boast of? No man could have gone before and pointed out the
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abuses of the form of government under which he lived: or how could the government have passed on from state to state, so as to have arisen to such a pitch of perfection, to such a state of maturation, that the Attorney General considers it as profanation to touch it? Gentlemen, you understand the principle upon which I mean to defend my client; and I will not advance one step further till I put him better in your minds than it is possible he can stand at present, either from what you have heard from abroad, or what you have heard in court; or from the means most unquestionably taken to cry down this book and the Author, who stands in a situation different almost from any other man who ever presented himself in an English court of justice. If I were to ask you, Gentlemen of the Jury, what it is that is the last fruit of the tree of liberty, not what they describe it, but what they would wish it, the English tree of liberty; if I may emphatically express what is the fruit of that tree, it is the security of the rights under the law, not only the rights of property, but the rights of liberty and reputation. How are we to have those rights, but by the administration of justice? Consequently there is not a man in England ever brought upon his trial, and where it can be at all conceived that upon the circumstances he represents himself before a court and jury, there can be any prejudices in those who are to hear the cause. So anxiously does the constitution guard against those evils, that if the smallest circulation
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of any paper that leads to the perversion of justice, or if from the best motives a person shall do the least thing that can at all affect the justice of the tribunal, from that moment the trial is postponed. If his Lordship will give me leave to remind him, upon the trial of the Dean of St. Asaph, or rather when he was brought to trial, there was a circulation of books read, not books relative to the object of trial, not books that affected to take notice even that he was coming to any trial, but extracts from ancient authors of high reputation, pointing out the rights of jurors, and shewing that jurors had a right to consider the innocence or guilt of the party, the Noble Lord put off the trial of the cause, not from any particular opinion that these writings were false, but because it was out of even course of trial. Gentlemen, in what situation do I stand before you? This unfortunate Defendant and his book have been prejudged in a thousand shapes; but, what is more extraordinary, pending the very trial, and when the cause was standing upon the paper. Gentlemen whom, I take it for granted, mean well to the country (though I have no doubt other persons act upon the same principle); but gentlemen who seem to know so little of the consequences, published throughout the world a protest against this very work of Mr. Paine; Gentlemen who seem so fond of holding up that constitution it is circulated throughout—it meets you at a turnpike, it is thrown down your arcos, it is thrown into your chaise. An answer to

this very book, which is now to receive a judgment; nay, that very tribunal, much higher than that in which we now sit, and in which I have the honour to be a member, and my learned friends know the truth of what I say, that from what has passed in that house, and gone on in every channel of circulation, this cause is prejudged. I do not make this observation relating to his Lordship, for there has not been a motion before to postpone the trial. I know perfectly well, if any such motion had been made, the effect of it would have been what justice and law required. No man can respect more the justice than I am sure I should have received than myself. What is the consequence of all this? You are to guard your minds against every thing, except that which meets you here. You ought to come prepared to look at this work, to give it its genuine construction, and to collect the evidence in the cause. With respect to the letter, I shall say a word at the conclusion of my address. You will at present put it wholly out of your mind, as being written long subsequent to the book; then the cause will stand thus: the Defendant wrote the book, and sends word he is desirous to be given up as the author of it, if any criminal inquiry takes place. There is not any evidence whatever of an indiscreet declaration; no taunting expression previous to the publication; not any thing that might not come out of the mouth of a man meaning no harm. It is not a libel upon the King, charged

upon the record. I never heard that such a letter had been brought about—I know nothing but from the record—I had seen something which professed to be a copy of a letter—I said it was a foul forgery to embarrass the cause; and it comes at a time that it produces embarrassment in my mind, and tends to prejudice my case.

You must look, my learned friend says, at the nature of the book, and the consequences it has produced; not only has it been published among the judicious part of the community, which was the case with the first part of the Rights of Man, which the Attorney General did not prosecute for a year and an half; he did not prosecute that book, because he thought it would only extend among the judicious. Every one must see whether the manner of the man is not as visible in the one as the other; it would have been an antidote to the poison, and little might be hoped or feared from the circulation of it. But with respect to this work, its situation had been different, and had gone down among all people, was printed on whited brown paper, was thrust into the hands of children to wrap up their sweetmeats, and was circulated in every corner. I should humbly submit to his Lordship, the mode of circulation of this book is not proved, neither the extent or the mode of circulation are proved, nor is there any evidence against the Defendant. Is it said that Mr. Paine desires the book might be so circulated? If he had, there would have been an end; but did he or not,

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at the time he was writing it, believe he was writing that which was beneficial to the English nation at large, and not meaning to deprive them of the advantages they had, or contemplating their misery? I am not examining what this man wished, I am not investigating that, but you must look to the situation of the man from his education, from his habits, and the whole history of his life, whether there is not one uniform cast of thinking to shew this book was not written upon the spur of the occasion, but from the result of his mind, his sentiments, and a long course of thinking for a long course of years. I cannot help being surprised that Mr. Attorney General, in the whole course of his address, took no notice how this work first came to be published in England; he desires you to take for granted Mr. Paine volunteered this first part of the Rights of Man, and, if wrote in answer to nobody, it was a thing done for a malicious purpose, and that he had nothing at all to provoke that inquiry; that it was followed by the second part; that he was the first man that set about this attack. In order to shew you how that matter is, I will read to you what my learned friend says, for the book must be all in evidence together; when my learned friend reads to you a passage concerning hereditary tyranny, or concerning the Hanoverian succession, what is the foundation of the observation, that every man must be judged most unquestionably from what he writes, that the mind is supposed to go with the hand; it follows equally, if

you read any part of my book : it is common sense, and the common administration of justice shews you, if you read any thing or any letter to make against me, you must read the whole together, and judge of the object by all that he has written—that I see I have the assent of his Lordship to—and you must take it out of court ; you are to look at the whole book, and compare those parts with the context and the conclusion ; and, above all, attend to that part which I am now about to read. He here states, in page 11 of the preface, before he begins the discussion, and consequently every man who reads the book has a warning before he begins what is the intention of the author. Read his introduction and preface, they have no other meaning than as a key or index to the intention of the author ; and it is as much as to say, any man that reads my work, although I furnish him with a clue to my sentiments and principles, and although I give him a preface, he leaves that out, and fastens a meaning and construction different from that the preface itself would explain. He says, “ I have differed from some professional gentlemen,” meaning gentlemen of our profession, “ on the subject of prosecutions, and I since find they are falling into my opinion, which I will here state as fully, but as concisely, as I can.”—

“ I will first put a case with respect to any law,
 “ and then compare it with a government, or with
 “ what in England is, or has been, called a constitution.”

“ It would be an act of despotism, or what in
 “ England is called arbitrary power, to make a
 “ law to prohibit investigating the principles, good
 “ or bad, on which such a law, or any other, is
 “ founded.”

He will put it upon the very footing the greatest
 writers upon the English government have put it.
 He goes on—“ If a law be bad, it is one thing to
 “ oppose the practice of it, but it is quite a different
 “ thing to expose its errors, to reason on its defects,
 “ and to shew cause why it should be repealed, or
 “ why another ought to be substituted in its place.
 “ I have always held it an opinion” (making it also
 my practice), and there is no evidence he has not
 made it a practice (for he has never been called be-
 fore a court), “ it is better to obey a bad law, making
 “ use at the same time of every argument to shew its
 “ errors and procure its repeal, than forcibly to vio-
 “ late it; because the precedent of breaking a bad
 “ law might weaken the force, and lead to a dis-
 “ cretionary violation of those which are good.”

“ The case is the same with respect to principles
 “ and forms of government, or to what are called
 “ constitutions and the parts of which they are com-
 “ posed.”

“ It is for the good of nations, and not for the
 “ emolument or aggrandizement of particular indi-
 “ viduals, that government ought to be established,
 “ and that mankind are at the expence of support-
 “ ing it. The defects of every government and con-
 “ stitution,

“stitution, both as to principle and form, must, on
 “a parity of reasoning, be as open to discussion as
 “the defects of a law, and it is a duty which every
 “man owes to society to point them out. When
 “those defects, and the means of remedying them,
 “are generally seen by a nation, that nation will
 “reform its government or its constitution in the
 “one case, as the government repealed or reformed
 “the law in the other.”

Gentlemen, you most undoubtedly wish to deal with every man that comes before you in judgment as you desire to be dealt with yourselves, if you should accidentally publish any thing that might not be thought proper, and any man brings you to trial for it. And, I hope, it will not be laid down as law to-day, if you or I should publish any opinion concerning the government of this country, that some amendment was necessary, and should point out the foundation upon which those amendments were to be made, and were to explain the errors, that I am to be convicted or acquitted just as twelve men shall think. If I am not perfectly right in my argument, there is an end of all freedom, that has made the constitution what it is; and by and bye, I trust, will make it better in form, and purify it from those abuses which, if they had not existed, we should not have been here to-day in the trial of this cause. He says, I obey the law until it is repealed; I make it my practice; I must not disobey the law till it is repealed; I make it a duty to obey the law. If a
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man choose to disobey a law that was bad, the same would apply to any other man that would not obey a law that was good ; and he states the advantages to society in the different ages of the world. He goes on and states them in page 162, Second Part ; the former pages in the preface were 11, 12. The reason I am occupying a little portion of your time upon this subject, is with this view—I wish you to follow me throughout upon the principles I put the cause upon, that, if you find any thing in this book which invests any individual, or any number of individuals in this country, or any thing but the whole nation itself, with the power of changing any part of the law or constitution, I give up the cause. I must give up the cause, because I will not affront the majesty of the court with stating propositions which must be false. If a man does not like the country, let him retire to another. If a man is resolved not to obey, let him go. A man is not only called upon, but it is a duty cast upon him by God and his country, to enlighten his country, and do a service to his country ; and I never yet heard it said, not without contradiction, not only it is not illegal, but highly beneficial to the community, to write what his mind and heart, and not what his malice, suggests—Not what, in the contemplation of the misery of others, he thinks proper to put upon paper, but what his own conscience dictates, whether it be the truth, or beneficial or not, it is the law of England, and no other law, that gives this right to the subjects of this country.

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He goes on—"When a nation changes its opinion
 " and habits of thinking, it is no longer to be go-
 " verned as before; but it would not only be
 " wrong, but bad policy, to attempt by force what
 " ought to be accomplished by reason. Rebellion
 " consists in forcibly opposing the general will of a
 " nation, whether by a party or by a government.
 " There ought, therefore, to be in every nation a
 " method of occasionally ascertaining the state of
 " public opinion with respect to government.
 " There is, therefore, no power but the voluntary
 " will of the people that has a right to act in any
 " matter respecting a general reform; and by the
 " same right that two persons can confer on such a
 " subject, a thousand may. The object, in all
 " such preliminary proceedings, is to find out what
 " the general sense of a nation is, and to be go-
 " verned by it. If it prefer a bad or defective go-
 " vernment to a reform, or choose to pay ten times
 " more taxes than there is occasion for, it has a
 " right so to do."

Gentlemen, these are the sentiments of the author
 of this work—sentiments which I will take upon me
 to say have the highest authority for their foundation
 —sentiments which I think are the best title, and the
 securest title, that his Majesty and his family have for
 the throne of these kingdoms; and so far am I from
 thinking his Majesty has any other advantage or foot-
 ing, that I thought it the highest act of attachment
 and fidelity I could shew for a person I regard, and
 shall

shall ever have the same affection for I have now. And I know the Attorney General can only say what he hopes, and I can only speak of that part of the letter which speaks of the profligacy of the royal children, which has been so much held out for a great length of time; that slanderous profligacy that ought to have been checked through the presses of this country. The Prince of Wales may be traduced and calumniated in every part of the kingdom, and they will never come in question till they are brought in to load a defence with matter collateral to the charge; therefore I say, that which the Attorney General can only hope, but which I believe and know, that whenever that Prince comes to be upon the throne of this country, (where I hope he will not but by the course of nature) he will make the constitution of this kingdom the foundation of his conduct; when I say that I am not in the smallest degree removed from contending the defendant is not guilty, and I say when he expresses such sentiments in this book, he expresses what is the interest of that illustrious family to cherish, and I spoke it in the presence of one of the illustrious persons, as I have since been informed. I put the title of the King's Majesty, as I conceive it stands upon the genuine principles of the Revolution, that is upon the majesty of the people at elections, not as you elect the King of Poland, but as you elect a family in hereditary right, which in the sense which Mr. Attorney General would give, that has no proof in this country, therefore it is fit you should know how

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the defendant came to write this book. God be thanked, the Attorney General knows my respect and value for him, and knows my sense of the honourable manner in which he has conducted himself from the beginning to the end of this business, and that I would not throw the least reflection upon him; but he will give me leave to state, and I wish it had not been left to me to state, how that first principle came to be the work of Mr. Paine. Concerning Hereditary Right I will now tell you, and it will give you a clue to the mind of the author. Taking it for granted you and I go together in thinking Mr. Paine mistaken in his opinion of the English constitution, and that we agree that King, Lords, and Commons, is superior to every thing the wit or wisdom of man ever put together, but the question will be, whether he ever thought otherwise, and whether he thought it badly governed under these circumstances, then the book will appear different totally from that light it is represented to you. Gentlemen, we all of us remember the calamitous situation in which this country stood a few years ago; a situation no good man can help looking back to without horror; a situation in which no man could feel himself safe from its not happening again while the causes I am now about to state still remain; I speak of the American war. This book, let it be known, for it appears upon the face of it, is written as an answer to Mr. Burke; it is written as an answer to him, not only the second part, but the first, written under the circumstances

circumstances I shall by and by explain, and in the course of that explanation I shall be obliged perhaps to cite one or two passages from the works of that celebrated person; and I shall speak of him with high respect, for it is impossible for Mr. Burke ever to make me forget him, whatever he shall be pleased to think of me or my friends, who think as I do. With whatever contempt he may look down on my humble talents, when compared to his, he shall never oblige me to forget the benefit the people of this country owe to him for the writings which he has left upon record, and for which thanks are due, next to the thanks which we ought to have to God, most humbly for putting into our minds those principles which are the safest and surest for our government; undoubtedly, though that celebrated person does not seem to think now as he did formerly, and although the constitution, as Mr. Attorney General told you, has remained from all eternity to the present time, without any material change, except a melioration of it, most undoubtedly that gentleman thinks very differently of it at present from what he did formerly; and if he had been as consistent, and his opinion had been as uniform as Mr. Paine's, we should not have had this trial. Mr. Paine may be right, Mr. Burke cannot. Mr. Paine has not contradicted himself, Mr. Burke has. He may be wrong in part, or right in part; but if he is mistaken throughout, it does not remove me from the ground of my defence.—That great and alarming conflict the American war, made Mr.

Paine a Republican, which he confesses himself to be, and which I admit him to be; he means to declare it as his opinion to be a constitution defective in its form, and attended with abuses which one day or another, in his judgment, will bring ruin on us all, I don't mince the matter of the defendant, I put it whether you shall be of opinion he thought so when he wrote; so whether he has written a matter that does contain any slander upon the magistracy of the King's person, or upon those who execute the laws, and whether it is that which falls within the denomination of a libel.—As to that letter, if the Attorney General was to indict him to-morrow, he could make no defence against it; having spoken of the King, and wrote of him as wanting proper qualifications, and representing the profligacy of the Royal Family, and that it was likely to produce evils, could he defend himself against that? Good God, gentlemen, it is impossible! The question will be for you, Whether this book, if you shall not find it to be infected by that letter (which is written nine months since) falls within the same principles?—Gentlemen, I stated to you the constitution of this country, as established by King, Lords, and Commons, is the constitution which I like, is the constitution which I should be sorry to see give way to any other; is the constitution which has been productive of various benefits, and is the constitution which I trust will be productive of many more, provided it does not carry in its form the seeds of decay, or unless we have not wisdom

dom to prop it up.—I agree with the merchants that assembled in the city of London, and should have been happy to have signed my name, and should have subscribed to it, had I a proof that the English government is capable of reforming all the abuses that belong to it, the abuses that are here stated, which is a clue to the mind of the man. I am defending a man whom I am not able to describe, and that I am afraid we shall hardly see again; and as it was truly observed by Mr. Burke in the House of Commons, when I stated the passage from the work of Dr. Johnson, that it was a very wise selection, more than I or the speaker could have found, I take it I shall still have more the lead when I refer you to the expressions of Mr. Burke, where he gives the character of that great man, Sir George Saville. After speaking of him in America, Gentlemen; (I am afraid I shall hardly have strength to go through my duty) as to the character of that great person we have unfortunately for many years lost, whether it would be attended with any benefit to the country, we must hear from himself in the letter he published to his constituents, and to the whole world; not taking the constitution of England in the abstract, or its formation of King, Lords, and Commons, in the abstract, but a direct account and explanation of his opinion concerning what was transacted by the Parliament of Great Britain, which for many years we were obliged to submit to with hardly a ray of hope of seeing a change. “I return to you” (says

Sir George Saville) “baffled and dispirited; and I
 “am sorry that truth obliges me to add, with
 “hardly a ray of hope of seeing any change in the
 “miserable course of public calamities.” Such were
 the thoughts of Sir George Saville; the consequence we saw. America, from being an obedient colony, not thinking as we profess to think of the English government, became a republic, cast off the yoke; and Mr. Paine, the Author, living at that time in America, and acting under the auspices of Mr. Burke, whose book brings him here, and if you read them together would give you an explanation of a multitude of passages. (Mr. Burke and Mr. Paine walked in the same field of reasoning together; they spoke in different places. Mr. Burke spoke in the Parliament of England, such as that great statesman describes it, who had no ears for such sounds. Mr. Paine spoke to the people, reasoned with them on their condition, told them no people could be bound to the subjection of any sovereignty further than their own benefit required.) Mr. Burke says these arguments are unanswerable. (The pamphlet of Common Sense contains all the doctrines contained in the Rights of Man, calumniates the form of government, and attacks all the principles and corruptions of the Houses of Parliament, shews their defects; so does Mr. Burke himself in his letter to the Sheriff of Bristol; and it justified the Americans in bringing about this happy and glorious revolution. And I take upon me to aver at this moment, there

there is as great a regard to property, less taxation, less grievances, less to deplore, and more to admire, in the constitution of America, than in any other country, any other constitution, any other government under Heaven. I will except none, except our own, and not that, unless it is purged, as it soon will be,—purged of those spots which I trust will not destroy wholly the vital parts, though they obscure them. Is not Mr. Paine to be believed because he was the only one out of three millions that did not remain attached to the crown, and tells you that all the blood that was shed in America was shed by the crown of Great Britain, under the authority of Parliament? Such as Sir George Saville describes it, and Mr. Burke describes. He came over to this country with a mind wholly republican. If you look to his pamphlet of Common Sense, he argues and builds his arguments upon what he has written before; and I should almost say he is a plagiarist from himself, for it is impossible for a man that writes one thing not to have the same thing in his mind. Now let us see what the American revolution in its consequences produced. A revolution which has lately happened in Europe, and likely to make so vast a change upon the face of the earth,—how did that revolution arise? It was produced in consequence of that incurable, corrupt, and profligate government that existed in France. God forbid, when I say that corrupt and profligate government, that I should mean it as a sarcasm against that unfortunate Monarch,

monarch, who, for any thing that I know, at this moment may be under affliction, and in a situation that grieves one to think of; no, it is not necessary I should do it; and I cast as little reflection upon that unfortunate Monarch, as I did when I spoke of this country. I do not mean to be understood to treat the King not only with that duty and obedience which belongs to the subject, but to conduct myself to him with that justice which I think belongs to him, and is due to his conduct from all men, either in public or private life. When I speak of these abuses and corruptions of our government, I speak of that which the commentator upon our law has stated so particularly, and whose book is put into the hands of every student before he comes here. I mean that unfortunate want of foresight, as he expresses it, of our ancestors. Why then, Gentlemen, can you suppose that reverend Judge was a libeller upon the constitution of this country? He tells you it is from the want of foresight in our ancestors: if it was so, let the foresight of posterity prevent those consequences, and take them into consideration; for it is not necessary to pull down a whole building because there happens to be a few of the tiles loose; it is not necessary to pull down the whole structure. Then comes Mr. Paine at the time the French revolution took place. I am now speaking to you of that which is within the reach of your own knowledge, at the time the French revolution had taken place in that country, that the Bastille was destroyed, that the King
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had been pulled down, and had, by his own consent, become the first magistrate of the people:—that had no manner of effect on this country: it would not have had any effect, had it not occurred to that celebrated person whose name I before mentioned, to provoke a subject, and which, if it were dangerous to discuss, he led the way to it. I trust it is not to be endured, that the human mind is to be put in fetters: I trust it does not belong to him, or any other man, to give us our lesson, and to say, this shall be your creed, and that we shall not think for ourselves. He has done that; and, in my opinion, more dangerously distorted the principles of our government. I say, if it be a libel for any man to mistake the constitution, or to put it upon the footing that will tend to destroy it, Mr. Burke is that libeller. But when I say Mr. Burke is that libeller, I do not mean that he is an object of criminal justice, because I can have no right to make him so. I do not mean, when I am defending the motives of one man, to criminate the motives of another; but I will put the case upon it, and you will find that in the preface, and the introduction, and in the whole body of the work. Now I will give it you from Mr. Burke himself. It happened, Gentlemen, when the French revolution pulled down despotism, a great number of persons felt an interest in the event,—an interest well worthy of Englishmen: they saw the fall of a government that had long been the scourge of Great-Britain, and which had led to a

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long, cruel, and desolating war, from its pernicious government, they saw that despotism humbled to the ground; and a gentleman who is now no more, a reverend divine, knowing that the issues of a human life are in the hands of God, thought it a matter of just congratulation even from the pulpit, and reminded the people of this country of the glorious deliverance, and the advantages arising from that revolution. Gentlemen, it is Dr. Price I speak of. It happened also, that a society of gentlemen, at the time when France was a neutral nation, and under their constitution the monarch was going in triumph, and amidst the crowds of his fellow-citizens, over and over again, to give assent to that which his oath had given sanction, to that system, because in the opinion of a very few, for Mr. Burke, very unwisely I think, makes it a sarcastic matter of reproach upon the insignificance and the smallness of the body of men, and that their names were never heard of till that moment; he thought it a matter for his eloquence to whip those scourges of faction to their kennels, and I take upon me to aver, there was no prosecution, no charge, no man was brought forth as a disaffected subject, there was no scourge of opposition, but he invents this supposed schism, in order to give the King a title which he has not from anybody but Mr. Burke, and which, I am sure, it would be his Majesty's most solemn interest to deny. Mr. Burke, by the bye, cites two-thirds of this work, and no man is to put in a reply; a man is to put

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government

government on what footing he pleases; a man is to take parts of my book, whatever he pleases, and I am not to answer it, but I am to be tied up from the common right which he assumes to himself. He says they are masters of the commonwealth; the French revolution, say they, was the act of the majority of the people; the people of England, for instance, wish to make the same change, and have the same right, so says Mr. Burke, that is to say, none at all. Gentlemen, if we have been insane for centuries, as the Attorney General has said, and that it would be to the advantage of this country to throw off the present government, that the people of England cannot do it, for God's sake let that sentiment never be uttered, and I deny, and I firmly deny it; if it be so, for God Almighty's sake, let policy and wisdom conceal it, and you had better furnish every body with a copy of Mr. Paine's book, and tell him to write to the public, than put that book of Mr. Burke's into the hands of every man. Say to a man, look at that constitution; it came down from generation to generation—there it is; it was a glorious struggle that gave it you; there are some obscurities upon it; the same wisdom that gave it you, preserves it; it is your own, will you have it or not; what is the answer? Yes, I will keep it. But if I tell a man it is packed upon your back as a beast of burden, you must carry it whether you will have it or not; it is not what your ancestors gave you; remember, I do not affect to say, you or I may stir up rebellion, it is

merely my opinion; and may be the opinion of any man; it is like drawing up a curtain before a man that is confined in the dark. I will shew you that Mr. Paine is not speaking upon the constitution, but merely answering Mr. Burke; he is denying Mr. Burke's principles, which are more dangerous than any that ever came from the English press. What is the revolution? That his Majesty undoubtedly is not an elective monarch; but was it not the people of England that elected King William to the throne? What will Mr. Attorney General say to me? I am arraigning my client for saying, it was the vention of the people of England who got together, the Lord knows how, and sent for King William. If that convention did not affect to have the forms of law, it was called the Convention Parliament. Did they give it to him in the line of succession? Did they not cut off the Prince of Wales, and might they not, as Mr. Justice Blackstone expressly says they might, have given it to any other family? To be sure they might; and he puts it upon the footing, that it was the wisdom of our ancestors to depart no further from the line of succession. It was a matter of discretion, and I maintain it to be the best title, and long may the King and his family live under it; they shall have my vote for its continuance, and it is the best way to live in the affections of the people; and it is not in the power of man to stir the constitution of any country, but from the default of the government; nor is it from any libels that may be

be written upon the constitution. Mr. Burke is pleased to say so in his "Thoughts upon the Cause of the present Discontents;" he thinks fit to speak upon those parts of the government for which Mr. Paine is arraigned for speaking upon. And I will shew that when I come to that grand part that brought me here to speak to you, that is, the limits, authority, and the liberty of the press. Now let us see whether there be others that differ from us and every right of the people to change their governments; to know they can change, and to circulate it among them that they can change, my learned friend will find it difficult to fasten the character of a libeller upon a gentleman whose work lays before me. Here I shall begin with a modern author; I have the honour of my learned friend's personal acquaintance; he is a man, perhaps, more devoted to the real constitution of his country, as will be found from many parts of his work, than almost any man I am acquainted with. He is a man of great learning; I mean Mr. Paley, Archdeacon of Carlisle, in a work, entitled, "Principles of Moral and Political Philosophy." Gentlemen, he is discussing this point, which was not thought dangerous the other day, and I hope we shall get over this ridiculous panic that makes us think that dangerous where no danger is in it. If the government of this country, like the Christian religion, be of God, it will stand; if not, we cannot prevent it from coming to nothing. He was discussing and thinking of the government of this country,

country, and he begins with differing from Mr. Locke, not throughout, but in part, upon the footing of a compact. You will see how different Mr. Burke speaks from Mr. Locke; it is admirable sense, and goes more to give one the true notion of government, than any book, and I should wish the attention of every body in this Court to it. Mr. Paley says, respecting the inconvenience of a compact, he thought it dangerous to call it a compact, for if broken ever so little, it is contrary to the will of God, whose will is paramount to all others; he then states this, which, I think, differs a little from the principles of my learned friend. "No usage, law, or authority whatever, is so binding, that it need or ought to be continued, when it may be changed with advantage to the community. The family of the prince, the order of succession, the prerogative of the crown, the form and parts of legislature, together with the respective powers, office, duration, and mutual dependency of the several parts, are all only so many laws, mutable like other laws; whenever expediency requires, either by the ordinary act of the legislature, or if the occasion deserve it, by the interposition of the people." No man can say this gentleman wished to infuse discontent into this country. If you fasten a government upon a man against his consent, and he has an inclination to get rid of it, if he do not like it, and other people approve of it, he will go out of the country; if all people disapprove it, they will make it
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what meets their approbation, and by that means the government will come to that perfection which cannot be done in a limited number of years, and will stand from age to age; and he goes on to say, and I think he says wisely, “ These points are wont to be
“ approached with a kind of awe; they are represented to the mind as principles of the constitution, settled by our ancestors, and being settled,
“ to be no more committed to innovation or debate; as foundations never to be stirred; as the
“ terms and conditions of the social compact, to which every citizen of the state has engaged his
“ fidelity by virtue of a promise which he cannot now recall; such reasons have no place in
“ our system.” So says this Gentleman; and I now contend, there is no part of this work of Mr. Paine that advances the proposition.

Mr. Attorney General says Mr. Paine dislikes the English constitution; he has a right, and I will shew you the wisdom and policy of the English law prevents a man being subject to a prosecution for it, and you will see I do not make use of my own authority when I make use of that expression. Gentlemen, Mr. Locke says, and perhaps his might be a libel also, though he was an affectionate servant to King William, high in the service of the state; he wrote before King William was warm upon the throne; and, holding a high situation, he puts it upon the very same footing, when he wrote in answer to Sir Robert Filmer, as Mr. Paine writes to Mr.

Burke:

Burke : what does it signify a fig, whether a king exist by divine rights, or whether it is from a compact which cannot be altered ; whether it be from something arising from God or man does not alter the question. Mr. Locke puts it upon the footing Mr. Paley does.

Mr. Attorney General says, the first parts of the Rights of Man being among the judicious classes of the community, he does not fear concerning it ; but when it descended and was circulated in the lower order, there the evil begins. It may be said, the people being ignorant and discontented was the cause. > To this I answer quite the contrary, and if there be defects introduced by time or corruption, it is not an easy thing to change them ; and it is universal throughout the world ; so you observe. I have two authorities which I have stated, besides an authority I will read that is more in point, the authority of Mr. Burke himself ; which shews the footing upon which he puts it is not that principle upon which the government can safely stand. < He says, “ the disposition of the people of America is averse to any other than a free government, and this is indication enough to any honest statesman how he ought to adapt whatever power he finds in his hands to their case. > If any ask me what a free government is ? I answer, that, for any practical purpose, it is what the people think so ; and that they, and not I, are the natural, lawful, and competent judges of this matter. If they practically allow me a
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“ greater degree of authority over them than is consistent with any correct ideas of perfect freedom, I ought to thank them for so great a trust; and not to endeavour to prove from thence that they have reasoned amiss, and that, having gone so far by analogy, they must hereafter have no enjoyment but my pleasure.”

Gentlemen, I am sorry to feel myself considerably consumed in strength before I have arrived at what I conceive to be the material object for your consideration. All I have stated has been to lead you to think there is not that novelty in Mr. Paine's opinions—I have shewn how they grew up in his life—how his history led to it—how his situation under General Washington led him to be a republican in belief, and, being so, gave him an opportunity of writing what he believed to be the defects of the English government. I do not mean to put the defence of my cause upon the existence of abuses. I have stated those authors for the reason of shewing you the nature of the liberty of the press, and I shall not be mortified in the least, or dejected, or put down from what I feel to be my own sentiments respecting the liberty of the press. If I should not meet with the approbation of the court in what I state, I shall go out of court most undoubtedly with a belief of what I know is well founded, that is, that the liberty of the press is as it occurs to you who are to decide it; but I have opportunities of seeing before now, and it ought to make us cautious before we condemn a man by bell,

book, and candle. It was but a year ago I had the opportunity of addressing you upon some of these ideas, and, notwithstanding Mr. Attorney General may say this is peculiarly for your consideration, you will remember your authority to judge of it is but a year old, and I should be very sorry, in the infancy of your jurisdiction, it should be arraigned. I wish to exclude his Lordship, and wish he should consider himself wholly out of the case.

Gentlemen, when I had less to support me, less strength, less knowledge, and less acquaintance with those standing around me, I remember not being treated with contempt or unkindness by Lord Mansfield (for he always treated me with regard and tenderness), with his mighty mind, enlightened with all the learning that belongs to the highest elevated character, he laughed at me, as one laughing at an infant babbling out its prattle, when I ventured to state my ideas upon the constitution, that a man was not to be snapp'd with a verdict the moment the publication was proved. Therefore, Gentlemen, let us be cautious when we see men on a sudden changing their opinions so entirely. We find the whole parliament unanimous that I was in the right, though so often in the wrong before; and I must feel that it is a great lesson of caution, to be careful before we condemn others, knowing that it is by slow and painful degrees that all the rights of the world have made themselves known. If Mr. Burke is right in his principles of government, that the people cannot change it,

it, then I am wrong; for no man alive can write about government at all, or the rights of the people, as they have no jurisdiction whatever. But if the people may change the government upon the genuine principles of government, they are a competent jurisdiction; and therefore Mr. Paine has, *bona fide*, wrote for the consideration of the whole people of England, whether the government of England is right or wrong, whether it is subject to these imperfections. Mr. Attorney General thinks that Mr. Paine wrote the many things he has here wrote without these imperfections existing; but his habit of life throughout shew that he wrote to the whole nation. Now let us see what has been the case, and I will give you some awful authorities of the progress of society, and the civilization of government, from the earliest accounts to this time; and then you will see if we should not have been in the woods, with dreadful ignorance, whether religious or political, if every man had been condemned as a criminal who had dared to advance any doctrine upon government. Are men to arise at no change or perfection but by the blood absolutely of the innocent? Gentlemen, I am defending an humble individual, and it is said of him he is only addicted to consider religious topics when drunk; but I am standing for a much more valuable object, the liberty of the press.—That I may know my condemnation may not go with it, and that I may not be criminal to-morrow, let us see

what the course of the world has been with respect to the dissemination of truth; let it be remembered that the universal God that created us was one of the first martyrs to the dissemination of truth; that he came with that divine qualification; that the Saviour of the world expired upon the cross for stating that which was the object of scorn to all those that it was stated to; his blessed followers experienced the same fate.—Why did they follow the same fate? Our Saviour might have done like the Mahometan Prophet, he might have come and promulgated that which was growing by slow degrees; he might have spread it at once over the whole world by devastation and conquest; he came to confound the pride of man, and he came to preach up those universal and equal rights which are the great privileges of mankind in every age of the world; he came therefore in that low estate he is represented, and preached his doctrines and his consolations to the poor. We find, subsequent to that time, as the conversion to the Church began, political power, and ecclesiastical power, going hand in hand, making havock throughout the world, beating down truth, and wounding by ignorance and superstition, till the revival of letters and learning began to advance upon the world. You will find superstition advancing the second time. Gentlemen, if you see in what manner the liberty of the press began in this country, or rather at what time its freedom was first abridged; if you will look into the books of the law, you will find no man punished,
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or punishable, for the propagation of opinion, till the erection of the Star Chamber, in the year 1637. Now I admit the safety of every community ought to be the rule ; there is no country but must take care of its own safety ; and if my learned friend can shew to me that the safety of this country depends on the speaking of the freedom of the people, that it is implicated in the freedom of all principles of government, then I shall admit the freedom of the law should pursue this gentleman. Has it that effect ? Gentlemen, during the time the press was laid under fetters ; during the time it was made subject to a license that no man should print a work unless he had a license, and until he had the authority of the state ; during the short period, which was but for eleven years, that that government lasted, all the authority of the government was coming to ruin, and terminated with that foul catastrophe and tragedy, the death of King Charles the First ; that is to say, in the ignorance of the people in preventing freedom of communication. It is the freedom of communication that prevents evil ; let men communicate their sentiments to one another, it is like fire scattered on the ground, or like gunpowder scattered on the surface of the earth ; it communicates, but the explosion is not heard : keep it under constraint, it is like gunpowder compressed, and like subterraneous fire, whose agitation is unseen till it bursts into an earthquake. Let argument be opposed by argument, and reason be opposed to reason, and the country is safe.

safe. In the time of Oliver Cromwell it was the same; in the reign of Charles the Second, how soon was that done away by a revolution; all those cobwebs were swept away, all were destroyed, and the country has lasted for a century without them; the vital parts of the constitution have been preserved; the freedom of writing and speaking have been inculcated, and the nation has been safe. Gentlemen, I will state to you some writers of great authority on this subject; and here I would humbly suggest to his Lordship, that in a case of this sort it is impossible to give authorities, and go to books of the law, with the same precision as we look for authorities in cases of particular description; as if, for instance, the question be, whether an individual be guilty of slander, and we go to books to see what had been considered slander by the law of England: but in a subject of this sort you can go no where but to the sense and opinion of the jury, and that sense is to be taken and compared with what has been written by one individual, with what in general is tolerated throughout the realm. I know, if I was to state to my Lord, that twenty men had written twenty things libellous, and not shewing this is not one, he might say, that does not shew your client has not written one. If you will read matter written by other people, which is reprehensible, it is another thing. But, gentlemen, if I shall shew libels in the writings of men that are considered as classics in the language, which are suffered to be printed and reprinted, certainly

tainly that observation will not arise. Gentlemen, I will read to you what is written by a person most undoubtedly of the most sublime genius ; and not only that, but a man of the greatest virtues ; a person whom I am sure my learned friend will think at least a great authority in point of learning, however he might be of opinion he was a Republican and Leveller in his writings and principles ; it only shews that a man may be a Republican and a good man, as most undoubtedly that man was. Gentlemen, I speak of the poet Milton, who wrote in the beginning of the Commonwealth against the act made by Oliver Cromwell's Parliament, to tie up the liberty of the press. Mr. Attorney General may say, and so far he will say with truth, there is a difference between a previous distinction and punishment for an overt act which is committed while the press is free ; undoubtedly there is one great distinction, but in my humble opinion, if every thing is to be judged a libel that does not fall within the principles of the government of the country in what was written, it would be infinitely better there should be a licenser than not. If I publish under a license, I do it with authority, and publish with safety. I send my book to a magistrate, who is to judge and examine its contents ; if he disapproves it, I will withdraw it ; if he approves it, I am safe ; for if a licenser is appointed by government, he must judge of the book I present to him, and he must approve it before I can publish it : but if there is no magistrate appointed by the law of England,

land, the press is free in the first instance, and every man may say and publish as he pleases. It is material certainly that every man should know upon what principle that judgment should be formed; for if that judgment is to be formed upon the jury not being of the same opinion with the writer, no man would venture or dare to put his mind on paper upon any subject in the world: therefore it depends on the principles on which he wrote, and what were the purposes of his sentiments.

Gentlemen, Milton mentions Gallileo. Now when Milton saw Gallileo, he was confined, because, upon seeing the phases of Venus in the telescope, he embraced the Copernican system, and was led to believe that the sun was in the center of that system. He ended his illustrious life in prison for only stating the sun to be in the center of that system, which we all now know it is, and which enables us to extend our navigation to the furthest corners of the world, and to carry our line and rule to the dimensions of the works of the Great God; yet for those truths you find that man was condemned by the inquisition for an opinion of his own, because it was different from the confined ideas of the days in which he lived. Gentlemen, remember I am not bringing you to think or believe, though we may think hereafter, or more probably shall think hereafter, that the English constitution is inferior to the constitution which my client approves; but it is enough for my argument that it is speculatively he speaks of it in the answer to the book which puts the
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the different parts of magistracy in a different manner to which he thought it should be put. Gentlemen, there is another author, whose opinion concerning the liberty of the press perhaps you may think more in point; he was an authority living much nearer our own times; he is a man who cannot be supposed to be carrying liberty farther than it ought to be; a man that held the highest and most enlarged principles of government. I speak of Mr. Hume; and he considers this liberty of the press, finding fault with the constitution, as the grand source of the liberty of the country: those grand principles account for the great liberty of the press in England, by which all the wit, genius, and learning of the nation, may be employed on the side of freedom, and every one may write his own sentiments. Gentlemen, this doctrine seems to me cut down and paired to nothing; for if I cannot write against the forms of the English government, then I cannot write against any part of it, I cannot find fault with it, I cannot say the King's Bench ought to be abrogated, I cannot speak against the Court of Chancery; I cannot, in short, make any one remark which would tend to make any alteration in the constitution or government. There are two other authorities that I will cite to you on the subject; they are both of them Peers of Parliament, and therefore judges of the law: one of them is a lawyer high in the administration of magistracy, and the other is no longer living, but made a splendid appearance while member in the

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Upper House of Parliament, and was attached most unquestionably to the King, as he held an high office under the King at the time he wrote this: I speak of the Earl of Chesterfield. "There is the difficult culty of distinguishing between liberty and licentiousness; one of the greatest blessings people can enjoy is liberty; but every good in this life has its alloy."

Lord Kenyon. I believe the writer of the life of Dr. Johnson speaks of that very speech, and claims that part.

Mr. Erskine. It is extremely true; Lord Chesterfield is supposed to borrow that which I am now about to state.—*Lord Kenyon.* That very speech was written by Dr. Johnson.—*Mr. Erskine.* If that is so, it certainly places me higher than I had any right to place myself. Though Lord Chesterfield was a great and ingenious wit, he certainly was far lower, and inferior in understanding and in monarchical writing, than the celebrated writer to whom my Lord has now alluded. If ever there was a man that professed himself an enemy to any thing that looked like political freedom, if ever there was a man that would knock down with a hammer every thing that had it, it was Doctor Johnson; therefore I am much obliged to his Lordship for his information. He says one of the greatest blessings a man can enjoy is liberty; for there is such a connection between licentiousness and liberty, that it is not easy to correct the one without dangerously wounding the other. It is extremely
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hard

hard to distinguish the true limit between them; like a changeable silk, we can easily see there are two different colours, but we cannot easily discover where the one ends or where the other begins. He concludes that arbitrary power has seldom or ever been introduced; and I confess myself much obliged to his Lordship for giving this passage to Dr. Johnson. Gentlemen, I confess I cannot help agreeing with the learned author of this observation. My learned friend, who has just now gone out of court, has not given you any principle; he has not told you what it is a man may not safely write, if this particular book is condemned. If indeed it is true that a man did contemplate the misery of the people of Great Britain, and thought as you and I do upon the government, he might think this book was written with an evil intention; but most probably he did not think of it as we do. I should be glad to know how much short of what Mr. Paine has written any man may write. May I say a republic is a better thing than a monarchy? May I say this constitution would be better without a House of Lords? Is there any language in which I may express those sentiments, or does a libel consist in the saucy manner in which the sentiment is expressed? If so, where is the boundary to be drawn? How am I to know when I am within the limits of the press or not?

I think there is a noble person I have described, whose mind is not turned to introduce disorder into the state, or extend the privileges of the public be-

yond what the law now is; I mean Lord Loughborough, Chief Justice of the Court of Common Pleas. I believe I can answer for the correctness of this. My Lord Loughborough gives this opinion, and I shall follow it up with an authority of the Earl of Stanhope; as I may overlook it, I will take that first. He says, with great shrewdness, after alluding to what fell from Lord Loughborough, "The thing that is illegal, is the exciting any one to sedition, or to a breach of the peace. The question therefore upon a libel is, whether a paper published did thus excite, and was so intended; consequently, mere speculative writings on the constitution are not libels, however absurd they may be. Suppose, for instance, that a man were to write a speculative work to prove, that a trial by a single judge would be far preferable to the trial by jury; or that a Parliament, composed only of a King and House of Peers, would be, beyond comparison, better than the legislature of King, Lords, and Commons; no man could possibly reprobate such a work more than I should: but if the work did not excite people to sedition, such a speculative publication could certainly never be deemed a libel, for absurdity is no part of the definition of a libel. If our boasted liberty of the press were to consist only in the liberty to write in praise of the constitution, that is a liberty enjoyed under many an arbitrary government. I suppose it would not be deemed quite an unpardonable offence, even by
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“ the Empress of Russia, if any man were to take it
 “ into his head to write a panegyric upon the Russian
 “ form of government; such a liberty as that might
 “ therefore properly be called the Russian liberty of
 “ the press; but the English liberty of the press is of a
 “ very different description, for by the law of England
 “ it is not prohibited to publish speculative works
 “ upon the constitution, whether they contain praise
 “ or censure.

“ The liberty of the press is of inestimable value,
 “ for without it this nation might soon be as thorough-
 “ ly enslaved, as France was, or as Turkey is; every
 “ man who detests the whole government of France,
 “ and the present government of Turkey, must be
 “ therefore earnest to secure that palladium of liber-
 “ ty, and must also be anxious to preserve to the
 “ people inviolate the trial by jury, that transcend-
 “ ent, that incomparable and guardian right.” There-
 fore you see, Gentlemen, as far at least as general
 principle goes, we have ideas in the opinions of
 persons; if this is not true, the noble Lord is writ-
 ing a libel himself, for exciting people to do all
 these things contrary to the law made by the upper
 house of Parliament. Now, Gentlemen, as to Lord
 Loughborough’s opinion, if I was to read it, I be-
 lieve it would be correct. Now, Gentlemen, you
 observe, if Mr. Attorney General had meant to say,
 if Mr. Paine had written these observations upon the
 English government, as I will shew you other men
 have made the same observations upon both houses
 of

of Parliament; if he had done it, as the Attorney General says, not extending the circulation of it by acts of his own; he has put no such fact upon record, there is no evidence of it; he has not charged any particular circumstance or act of the Defendant antecedent to writing this book; he has shewn you no declaration of his contrary to those of a good subject; he has shewn you no conversation which marked him to say by and bye we shall see confusion in England, and such destruction as is going on in France. I would give up my brief if it was so, for it would give the lie to his preface; it would have shewn he did not address himself to the universal reason of the people of England, but that he thought to introduce misery among the various classes of mankind in this country. Gentlemen, therefore I stand before you upon this ground, which brings me to remark upon the passages, and then I have done. I am not surprised, because when I consider the nature of the human mind, how much I have to struggle against in your opinions; and know you are anxious to retire from the consideration of the business, I know your justice will indulge me with the hearing of what it is my duty to state to you. I stand at this bar for the purpose of giving a criminal arraigned before you that defence which the law entitles him to; if any part is inconsistent, my Lord will stop me; if any thing is improper, if it can be answered, or if it is so clear in your mind as not to require any, your verdict will in a moment

ment overthrow all that I have been saying.— Our duties are of the most different nature in the world; you will discharge your duty while I discharge mine: it is not mine to judge, but to lay the materials before you to judge; the same right any man has Mr. Paine has. When my Lord and I were engaged together in 1780, I do not imagine we were considered as contending for the propriety of assaulting the House of Commons, or putting the city of London into a conflagration; I am doing that to day which my Lord and I did in court together then. What I am doing now is in expectation of justice; and his Lordship, I have no doubt, will think no disgrace or obloquy that any man can state, should be thrown out against me for having done my duty in the manner I have done it. Some have stated that I am zealous from disaffection; others, that I am solicitous to shew my abilities from vanity: though, if there were any situation which would forbid a man to do it, it must be this, when he is to contend, and obliged to speak, against the most innate feelings of the mind; when he is obliged, by looking round, to see so many countenances expressing no very great sense of approbation at what he is maintaining with all his strength, and feels his duty, and shall to the latest hour of his breath, and hopes to maintain that strength and collection so necessary to support so painful, laborious, and unpleasant a duty, as my situation calls upon me to perform.

Gentlemen,

Gentlemen, I come now, and then I have finished, which will not be long, and shall relieve you from the pain of hearing me any longer; to observe upon the passages in this book. I am sure, to every candid mind, it will operate as an excuse. If I had set about commenting upon these passages without having laid a foundation for my arguments by authorities wrote by other persons, you could not have understood the text; and I know it would have been impossible to have received any attention from you if I had not done so; you would have gone out of the court and said, as lovers of the constitution, shall we not condemn this man?—I tell you I expect your verdict upon no such foundation. If you were called upon by truth and justice to give a verdict, I should think you might say, we are of opinion that the King, Lords, and Commons, are not only in the original constitution the best established government, and the most beneficial, but we believe none of the corruptions stated are in it, and we acquit the Defendant because he thought otherwise, and did it without looking to any particular magistrate; and that these criticisms did not apply to any particular person in the country. If that appears upon the face of your judgment, then I say the public is not injured, and the liberty of the press is not wounded through any man's side; but if you transgress those bounds laid down by the policy of the law, you make a snare for others; therefore all I seek for is the establishment of that principle, leaving you to compare

compare the facts, and see whether they have any application. With respect to the first passage, I shall do it away in a moment : it says, “ All hereditary government is in its nature tyranny. An heritable or unhereditary throne, or by what other fanciful name such things may be called, have no other significant explanation than that mankind are hereditary property. To inherit a government is to inherit the people, as if they were flocks and herds.”

Is it to be endured, says the Attorney General, the people are to be told they are like so many sheep and oxen?

Certainly not. I am of opinion, a more dangerous doctrine cannot be instilled into the people of England. Mr. Paine is not doing that, when he states they are like flocks and herds ; he is writing in answer to Mr. Burke's book, that asserts the hereditary monarchy is fastened on the people, without any consent of their own. But, says Mr. Payne, I deny that that is the constitution of England : the King is the magistrate of the people, how then can you inherit them ? the King, Lords, and Commons represent the people, and can confer the throne upon his Lordship, or you or me : they represent the whole people of England, and therefore, says Mr. Paine, there is no such King as you represent inheriting the people by absolute necessity, or “ that to inherit a government is to inherit the people as if they were flocks and herds.” And so Mr. Locke

expresses it. No man can consent further for himself; for he says no man, by any compact whatever, can bind his children or posterity. So says Locke, and so says Paine; therefore it is not the King of England, it is the King of France, it is the Emperor, and the King of Prussia; it is all those monarchs that are fastened upon their unwilling subjects; therefore, he says, that species of inheritance to inherit the people, is it not binding? But if I myself am the shepherd, does any body inherit me like a flock? If I by my free consent give up my liberty, nobody is to blame: I am the guardian and protector of the government. I may be wrong in attacking the foundation of the British government, but am not wrong in saying Mr. Burke says it: therefore Mr. Paine contradicts Mr. Burke in his explanation of an heritable crown; he is distinguishing the King of England, as he ought to be distinguished from that title, the most unpleasant to fasten upon a prince: he considers him as a Majesty of the people, and therefore not inheriting us like herds and flocks; therefore I think this passage is out of the case entirely.

Gentlemen, the next is, what I think extraordinary, my learned friend from page 21 leaps over to page 47, and begins in these words: "This convention,"—you will see what convention he is speaking of; he is making a comparison between the convention of America and that which took place on the Revolution in France—he says this "convention

" met

“ met at Philadelphia, in May 1787, of which
 “ General Washington was elected President:—
 “ he was not at that time connected with any of the
 “ state-governments or with Congress; he delivered
 “ up his commission when the war ended, and since
 “ then lived a private citizen.”

“ The Convention went deeply into all the sub-
 “ jects; and having, after a variety of debate and
 “ investigation agreed among themselves, upon the
 “ several parts of a federal constitution; the next
 “ question was the manner of giving it authority
 “ and practice.”

“ For this purpose they did not, like a cabal of
 “ courtiers, send for a Dutch Stadtholder, or a
 “ German Elector; but they referred the whole mat-
 “ ter to the sense and interest of the country.”

Now Gentlemen, I apprehend, whether King Wil-
 liam was brought over here by the soundest and
 justest motives of the whole people acting for them-
 selves, or whether he was brought over here by those
 motives which very frequently have a share in the
 most refined establishments, signifies not a farthing;
 the author of the Commentaries upon our laws
 warns us not to fix our regard or obedience to the
 government; but considering the motives of our
 ancestors that established them, it is enough that it
 is established. I should love the constitution of the
 country just as much, and be as happy as if all those
 rights that were brought about by King William
 had been brought about by demons. Do *you* any of

you love the reformation the less because it was brought about by Henry the Eighth? because his motives were bad, and he had squandered the treasures of his father, and had put to death one woman to marry another his affections had been fixed upon, and though he did it from the most degenerate motive, does it alter the reformation or affect its priority, or in the smallest degree affect the Prince or hurt the title of the King who sits upon the throne of this country? Will my learned friend say, if I were to write a whole volume against Harry the Eighth with the most pointed asperity, that I should be convicted of a libel? where is the difference, whether it be one or two centuries ago it happened? it was not in the smallest degree libellous; if it were, you will find that one of our most valuable historians had been guilty of it. he gives it us from the records of the country, the manner in which King William and his creatures brought this about; he would be answerable for a libel if Mr. Paine is for writing this; and it is impossible any man can write a page of history, if that is the case. Mr. Hume states the intrigues which paved the way for King William's coming to the throne: he says,

“ It must be confessed that the former articles of
 “ the Great Charter contain such mitigations and;
 “ explanations of the Feudal Law as are reasonable
 “ and equitable; and that the latter involve all the
 “ chief outlines of a loyal Government, and provide
 “ for the equal distribution of justice, and free en-
 “ joyment

“ joyment of property ; the great object for which
 “ political society was at first founded by men, which
 “ the people have a perpetual and unalienable right
 “ to recall, and which no time, nor precedent, nor
 “ statute, nor positive institution, ought to deter
 “ them from keeping ever uppermost in their
 “ thoughts and attention.”

And thus the revolution was brought about by a coalition of the parties of the Court : what matters it by what means it was brought about—the question is, what is the thing brought about ? and whether it stands upon the consent of our ancestors, followed up and kept in existence by our own ? if it is, no man can rebel against it without being a victim to the laws. All I am arguing for is the freedom of opinion, not the freedom of conduct which is bound, as Mr. Paine says, in every part of this work, by the institution, by which a man is called upon to live.

With respect to what has been said of the Edwards and Henries, surely my learned friend will not arraign this because the author is not well enough read to know Edward the Third was a great Prince and King, and because he names him with the Henries it is a libel ; but, says he, he tells you there was no Constitution up to the Revolution, but that all the constitution was got piece-meal, by the people struggling with those tyrants. I say so ; and I think it for the honour and advantage of the country, that it should be known. How is it possible to say Magna Charta was not to take from King John that assumed

assumed power which he over and over again asserted? Two-and-forty times the statute of Magna Charta has been re-enacted; sometimes with arms in the hands of the people; and King John was forced to sign it at Runnemedede. The people took it as their inheritance; they had a right to it. How is it with respect to the other parts? how did they establish it at the Revolution, and in every other part of our history? Gentlemen, I was observing they were taken by the people with arms in their hands; and it was given even as a thesis in the different universities, and it happened to be allotted to me, while I was under the discipline of a college of England, to maintain, and a reward for maintaining successfully, that the liberty of the people of England at the Revolution, did not arise from any remains of the Saxon liberty, but it arose from the oppressive system of the Normans; it carried the spirit of freedom from man to man, from one end of the kingdom to the other; and by slow degrees, by imperceptible and successful struggles that was obtained from those princes whose power was assumed, in violation of those rights which are unalienable, and belong to all mankind. Mr. Hume himself states expressly, that the Constitution of this country was nearly an absolute monarchy, notwithstanding the numerous panegyrics upon it. It is impossible to say one man is to be punished for what another man has written who has become a classic in the language. All the world will not make that intelligible. Notwithstanding all the numerous

merous panegyrics upon English liberty, it may be said to be an absolute monarchy till the last century; it appears so from all Mr. Hume has recorded. Shall it be said, if a grave historian writes that, that another man shall be made criminal for asserting the same principles?

Gentlemen, the next passage arraigned is this: “The attention of the Government of England; for I rather chuse to call it by this name than the “English Government” (tho’ if there is any difference, I am sure I don’t comprehend it) “appears since its political connection with Germany “to be so completely engrossed, and absorbed by “foreign affairs, and the means of raising taxes, “that it seems to exist for no other purposes: domestic concerns are neglected, and with respect “to regular law, there is scarcely such a thing.”

That the Government of this country in consequence of that connection has certainly been loaded with a great number of taxes, I believe no man can doubt: when a man contemplates the vast system of revenue, he may be led to a thought of that sort; he does not arraign the administration of law or justice; he does not say the law is administered without regard to truth, or that the magistrates are corrupt: if he had done so, that I admit would be a libel. He states (which has been stated over and over again from the pulpits of this country) that the law of this country is mainly defective; that it wants that which should belong to it, and is overloaded with a variety of forms that tend, of many subjects



subjects that are brought, to apply. Gentlemen, I am not arguing for the right of free discussion, let us see whether we cannot find authors that speak their opinions from palaces (where certainly nothing seditious would be endured) and draw a comparison of the law of England and that country from whence Mr. Paine came, America. This is observed by Mr. Newcombe de Cappe, and you will find others taking notice of our jurisprudence, by those called upon to administer the law from the bench; therefore, the Gentleman's observation as to the law, does not appear to be that species of attack that falls within the description of a libel, if you take it in the sense I am giving it, and in the sense I wish you to consider. Gentlemen, with respect to the House of Lords, I believe I shall be able to shew you the very person who introduced this controversy, and who is considered by those that are interested in the government at present, as a man truly devoted to maintain the government of the country in the highest order and preservation. He has made remarks not kinder, and you will think more severe, than the Attorney General did to-day. He says that two Houses appear to be effectually influenced into one, though not in their original construction. Mr. Burke is pleased to say of the House of Lords in these words: "It is something more than a century ago since we voted the House of Lords useless, and they have now voted themselves so; and the whole heap of reformation"

(speaking

(speaking of the House of Commons,) "is cast
"upon us."

He does not speak of it in the House, or merely in his place in Parliament, but it is printed and reprinted; and a new edition was published not above three months ago, and circulated through the public. This passage still stands its ground; he thought it applicable to remark upon the abuses which prevail in Parliament, and which may lead to various serious consequences, if not considered by the people of this country.

Gentlemen of the Jury, this was held out upon a recent occasion by that person who is now in the highest situation in his Majesty's council, and who has the confidence of the nation, as I am given to understand, and who has the order of the state put into his hands: I am not meaning to calumniate him; but in my opinion that was the brightest passage of his life, and I should have thought him brighter, if he had continued in those sentiments.—That Right Honourable Gentleman I have a right to speak of, and make use of as an authority for his talents, rank in the country, and various circumstances that tend to adorn him; but I think, Gentlemen, it would be a hard thing not only upon the defendant, but a hard thing upon the country, if it is to be decided, That that which is to be done with impunity and with approbation, and spoken highly of by one man, should bring another man to a pillory or a prison. What is the assertion of Mr. Paine?

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That the Minister touches the House of Lords, as with an opium wand, and that it sleeps obedience. Does he mean to say that is any part of the original misfoundation of it? Does he say it has descended from generation to generation? he does not; he gives it that root and foundation Sir George Saville, that illustrious patriot, gives it; who tells you that the House of Commons was in his time what Mr. Paine represents it; that the House of Lords was what Mr. Paine represents it; and all attempts to reform it would be ridiculous, except those, the foundation of what is written in this book.

I observed my learned friend raise his voice, as if any thing concerning Mr. Horne Tooke was to be a reason why the defendant was not to have the same judgment as if Horne Tooke's name had not been mentioned. Let us see what is decided by that Right Honourable Gentleman at the time I am considering him that illustrious patriot for the preservation of that Constitution we live under. I hope and trust, whatever may be the event of this day, you will not surrender any part of the liberty of the press, or any part of the genuine freedom or benefits arising from it to this country; and though I have the unpleasant sensation of knowing I make no effect on your minds, yet I must discharge my duty in the minds of those who hear me; I will maintain my own, here and everywhere; and with unabated patience and perseverance will I go through what I take to be my task.

This

This was recorded, and sent throughout the country; it is in these words, signed by that Right Honourable Gentleman, by the Duke of Richmond, Lord Stanhope, and Mr. Wyndham, but particularly the name of the Duke of Richmond stands at the head of it; when I say that Right Honourable Gentleman, I mean the Right Honourable William Pitt. This declaration was published not as an abstract of speculative writing, but as a writing published within a week after the House of Commons decreed they would make no alteration in the Commons House of Parliament: they met at the Thatched-house (and they had a right to do it) and gave their opinion to the people of this country: Were they prosecuted for libels? I desire you as men of honour, and as men of truth, to judge of Mr. Paine's book, which talks of the Minister with his opium wand. Mr. Burke, at that time of day says, "In consequence of this corrupt and venal Parliament, in consequence of the influence of the crown extending throughout the realm taken together—" What is the cure Mr. Burke prescribes? he tells you the people without doors are to be excited to look to those evils. I will read it in his own words: he says, "Let equal justice be done; don't let one man be burnt in effigy for affection to Government, while other men are enjoying all the sweets that belong to a supposed attachment to the Constitution." He says this, "The distempers of monarchy would be a great subject of apprehension;

“ it is not Parliament alone that can remedy it ;
“ and the people ought to be excited to a more
“ strict attention to the conduct of their representa-
“ tives.” In God’s name, Gentlemen, how are they
to know it, if I cannot say it in general terms in
the House of Parliament, without venturing to ad-
vance a libel ? how am I to come forward, as it is
one of my privileges to come forward, and warn
the people of England of the conduct of this or
that man ; he says, “ he writes not to them only,
“ but to the whole people of England, and it ought
“ to be settled in the meetings.”

Now, Gentlemen, the English of it is this : These
seditious publications which are so loudly talked of,
were in the market all that time, as my learned friend
stated ; no man thought of it, no man talked of it
at the time, when a certain number of persons pro-
posed what I have read out of that green book ; in
another place no information was upon the file ; but
no sooner this was published, than we hear the king-
dom was to be overturned by persons presuming
to publish sarcasms and libels. My opinion is, the
Government will never be affected by any libel ; let
it be corrected by its own purity ; as Doctor John-
son says, “ If they examine their own conduct
“ they will find the cause ; let them correct it, and
“ they will find the remedy.”—I trust it is one of
the dearest privileges the people have, to examine
and watch over every part of the Government of the
coun-

country ; and the press ought to be free for a man's consideration, to make what remarks he pleases, touching the frailty of the structure, or any part of the Government, whether it be frail in itself, or rendered frail by those acts arising from its being constituted such a number of years—provided you think the man who wrote it believed in those imperfections; and the advantage or disadvantages. I think that any person standing here upon his trial for giving that little account I have been reading, cannot be guilty of a libel. Let us remember what it is this celebrated person says, when he is speaking of Lords and Commons, and why he would have abolished some of those high offices about the King's person. You all know I speak of Mr. Burke ; he says, among other things, “ If those salaries are taken away, the nobles would desert the court.”

I do not agree with Mr. Burke in his position ; I dismiss the position, as I think it is a scurrilous shabby attack upon the nobles of the land, and upon his Majesty ; and though Mr. Burke has a right to write so, I say it is an infinitely more shabby and fouler attack than the present, — I hope your Lordship understands me, I am speaking of it with disapprobation. What does he say ? he says, “ a King “ is naturally a man who is fond of low company, “ is fond of the lowest and worst miscreants ; therefore we must first get this necessary thing and “ then we must take care to bribe that part of it ;

“ a parcel of fellows, not fit for any thing ; and
 “ take care of another part that is equally as bad,
 “ though not quite so bad as fiddlers and buffoons.”

Gentlemen, that is a farcaſm upon the Britiſh Conſtitution ; but mix it with the whole of the matter contained in the man's book. If he writes any thing about the King, he muſt be convicted, and I could not defend him ; I muſt ſtand in my place to do my duty, which would be over in an inſtant, though it is not charged even on record to be a libel upon the King's Majeſty. I ſay it does not include the King. Does the Attorney General ſay it does ? if he does, I can call for a verdict ; but if my learned friend chuſes to change his innuendo, he ſhall do it now ; but no jury could find an innuendo which there is no evidence to ſupport. With reſpect to thoſe publications that ſpeak about monarchy, what a wonderful inſtance have you in Harrington : I don't know whether it did not come from ſome publiſhing ſocieties. He was repreſented as a republican writer, that had been promoting the murder of King Charles I. : a low obſcure man, who had no wiſh but that which every deſperate man has, of pulling down what was eſtabliſhed.

It does divert one to ſee thoſe perſons write thus, though I dare not be angry with any body that writes ; but theſe are a ſet of fellows, who will let nobody write but themſelves ; they publiſh books, and you have them thrown into your chaiſe in anſwer to this book ; but if any man would give notice
 of

of it, and undertake to prosecute and aid the civil magistrate, not those that the Attorney General thinks objects of prosecution, but a set of Gentlemen who chuse to call themselves lawyers into the bargain, this conspiracy, as they call it, and I call upon my Lord to support me, that when a man is standing upon his trial for publishing what he has written upon the constitution; are these the means by which Englishmen are taught to love it? I say, if this man was stained with blood, instead of ink, if he was covered over with crimes at which human nature would shudder, still he is equally intitled to that hearing allowed him, and which he has a right to as a member of the constitution. Gentlemen, I stand here as an advocate for this man; and perhaps if I had not a considerable degree of presence of mind, arising from considerable experience, I should have been beat down long ago, not but that you have given me a most painful and obliging attention, but because I know every avenue is choaked up against me; I know the whole press is pointed against me, and this man by name; all the engines of government have been employed against him; and in the Commons House of Parliament they have named him, and prejudged his work.

I gave my sentiments as an English Lawyer; which was consistent with that dignity of character which I hold in that assembly. I have nothing to hope or fear from doing my duty, which I will

will not shrink from, but will persevere in it to the last. Gentlemen, it is said, that the man I alluded to, who has written any thing like it, is as great a thief, and as obscure a ruffian, as this man, Gentlemen, this Mr. Harrington, this low black-guard, this murderer of Princes, this blood-stained ruffian, is descended (you will see it for Six-pence at the Herald's office) from Eight Dukes, Three Marquisses, Seventy Earls, Twenty-seven Baronets, Thirty-six Barons, of which number Sixteen were Knights of the Garter. If this cause was tried in Germany instead of England (I have a right to be heard) what was he? Besides he lived in the reign of Charles I. Oh brutal ignorance of the history of this country, and this is his most affectionate servant; and it is observed he was a republican, by what the historian says. Toland says, I cannot too much boast of the man the king's favourite: I know not which most to commend, the king for trusting an honest man, though of republican principles, or Harrington for owning his principles while he served the king. How did he serve him? May all men who profess monarchy so serve their monarchs! He staid with him in the Isle of Wight, to watch the fortune of his royal master; he came up by stealth; he hid himself in the boot of the coach, to take a last farewell of him, and fell into his arms; and afterwards fainted on the scaffold, at the feet of his expiring master. After the death of Charles he wrote his famous *Oceana*; and after paying tribute to a virtuous and
unfortunate

unfortunate master, he contended it was not Charles I. that brought on his own death, but the evil nature of monarchies. Gentlemen, then it was the seizure of books began, by that tyrant Cromwell; and you first begin to learn what a wise man Cromwell was. Harrington begged his book from Cromwell's favorite daughter; and seeing her infant at her side, he snatched it up in his arms, and ran away. Alarmed for its fate, the mother followed him. Says he, "I have taken your child, and I know what you feel for its loss; your father has got my child," meaning his publication, "I restore to you your child—supplicate your father to restore mine." The daughter petitioned her father, and Cromwell yielded. Says he, "I will give it you; for, if my government is made to stand, it will never be hurt by this paper-shot." Nor will any government, as Milton says. Let another man read it; let him answer it—that is another way; let him do as Mr. Adams did. I contend, that out of a coalition of writers truth is to come. I do not quarrel with Mr. Adams for writing his opinions; so said a celebrated person, who was an ornament to his country, the President Montesquieu. Says he, "It is not material, in a free country, how men reason; it is enough that they do reason: the coalition of reasoning brings forth the truth, and that truth is the basis of the best and surest government, as long as people are capable of knowing its value." Gentlemen, let me then address you in, I think, language

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the most affectionate it is possible to hear, here or any where ; an extract from the same author. I mentioned before, where he raises at once, in that sublime and glorious manner, jowriting and thinking, so peculiar to that mighty poet Milton ; a man—how shall I describe him ?—no copier of any thing that is human ; he looked up to that sublime Source, as he describes it, the universal God and Father of the world, who, as he expresses it, is the source of all wisdom, and who sendeth out his sun, and touches with the hallowed fire of his altar those lips which he pleases to inspire. Methinks I see it so ;—I think I see not the distinction of the English constitution ;—but I think I see what Milton thought at those times he saw ; but which unfortunately never came to pass. The country is forsooth in danger by the publication of a six-penny pamphlet, but the auspices of the greatest statesman are eminently so. A man whom to name is to honor and to admire ; a man whom no history can shew a greater, nor any private acquaintance more dear ; a man who is loved with the affection of a friend ; a man who put to its hazard his ease and darling popularity, for the benefit of the people of the land, that he was born by his mighty talents to cultivate and reduce to order. This is the character given to Mr. Fox by Mr. Burke ; and this is the man with whom, says he, I have lived in the greatest friendship, and whom I may say I have lived to see treated in the manner I have unfortunately witnessed. Gentlemen, I have but a few words more to trouble
you

you with, if you will have the goodness to hear me; and that is this: I wish that this man may be judged of by you in the manner I have been proposing; that all this freedom, though it is not any other freedom than belongs to the constitution of the country. Remember, I am not asking the verdict for him, on any other institution than the law of England. I am not desiring your decision on any other constitution. The policy of Great Britain is not to have a jealousy over her subjects, to know what is for the benefit of the whole community. The subjects of England are affected to whatever is right and honest; and let reason be reason, let truth and falsehood oppose and fight one another, but it is better to pursue this course with respect to Englishmen, which was proposed by Lord Chatham. Do not think they are to be bent to your purpose by a froward conduct.

Be to their faults a little blind;
 Be to their virtues very kind:
 Let all their thoughts be unconfined,
 And clap your padlock on their mind.

Do not limit their conception; and do not imagine with the Attorney General, that they are to be led away either by argument, or by sarcasm: but it is to operate by degrees, it is to engage their affections, convince their reason, and they will be loyal from the only principle that can make loyalty sincere, vigorous or rational; a conviction which will operate by degrees, that it is their truest interest, and that their

form of government is for their common good; constraint is the natural parent of resistance, and this doctrine is by no means novel. In all histories of former times, it has always been express and convincing, that where one side has been tyrannical, the other side, that was in opposition to it, has been refractory: on the other hand, all nations have considered the contrary even as long ago as Lucian. You all remember, Gentlemen, the pleasant story in that fable of his respecting the Countryman and Jupiter; they were conversing with great freedom and familiarly on the subjects of heaven and earth; the countryman listened with great attention, and acquiesced in the conversation so long as Jupiter tried only to convince him by reason and argument; but the Countryman happening to hint a doubt as to the truth and propriety of something which Jupiter had advanced, he instantly turned round and threatened him with his thunder: No, says the Countryman, if you up with your thunder, I believe you are in the wrong; you are always wrong when you appeal to your thunder; as long as you have reason on your side, I believe you may be right, but I cannot fight against thunder. So, Gentlemen, I cannot fight against the united voice of the people of England, and God forbid I should; I am an obedient subject and servant of the law—to that rule of action I shall ever give my voice, opinion, and conduct. You may condemn my conduct, but I shall ever do as I have been doing to-day;

day ; I hope, with confidence, that I am not transgressing those rules in doing the duties of my situation which are accidentally cast upon me.

The Attorney General rose to reply, but Mr. Campbell, the foreman of the Jury, said he was instructed by his brother jurors to say that he might save himself the trouble of any observations, unless he thought otherwise himself, for that they were satisfied.—The Jury immediately gave their verdict *Guilty*,

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